

**CCDLA**  
**“Ready in the Defense of Liberty”**  
**Founded 1988**

**Connecticut Criminal Defense**  
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March 2, 2009

Hon. Andrew J. McDonald, Senator  
Hon. Michael P. Lawlor, House Representative  
Chairmen, Judiciary Committee  
Room 2500, Legislative Office Building  
Hartford, CT 06106

Re: **Raised House Bill No. 6575**  
**An Act Concerning Revisions to Provisions Raising the Age of Juvenile**  
**Jurisdiction.**

Dear Chairmen and Committee Members:

The Connecticut Criminal Defense Lawyers Association (“CCDLA”) is a statewide organization of approximately 350 lawyers in both the public and private sectors dedicated to defending persons accused of criminal offenses. Founded in 1988, CCDLA works to improve the criminal justice system by insuring that the individual rights guaranteed by the Connecticut and United States Constitutions are applied fairly and equally, and that those rights are not diminished. At the same time, CCDLA strives to improve and suggest changes to the laws and procedures that apply to the criminal justice system.

**CCDLA OPPOSES SECTION 15 OF RAISED BILL AND URGES BILL’S**  
**AMENDMENT.**

CCDLA supports passage of most of the provisions contained in Raised Bill 6575, An Act Concerning Revisions to Provisions Raising the Age of Juvenile Jurisdiction, making necessary changes to incorporate 16 and 17 year olds into the juvenile justice system and addressing concerns raised by law enforcement officials who sit on the Juvenile Jurisdiction Planning and Operations Coordinating Council (“JJPOCC”) as well as to lessen the budget impact of Raise the Age legislation. However, CCDLA strenuously objects to Section 15, subsections (b) and (c) of Raised Bill 6575 seeking to repeal C.G.S. Sec. 46b-137 effective January 1, 2010, permitting police officers to question 16 and 17 year old juveniles without the child’s parent or guardian being present, and rendering any statements, admissions or confessions, written or oral, given by them outside the presence of their parents to be admissible in court against them. This provision flies in the face of

the purpose for the Raise the Age legislation on a critical matter—the right against self-incrimination and the knowing, intelligent and voluntary waiver of such a right--and should be deleted by way of amendment to the Bill.

Raised Bill 6575 draws a false distinction given passage of the Raise the Age legislation between the confessions and statements of children 15 and under and those who have attained the age of 16. (Sec. 15 (a), (b) and (c)). It seeks to permit the admissibility of any admission, confession or statement, written or oral, made by a 16 or 17 year old without a parent or guardian present if the Juvenile Court official or police make “reasonable efforts to contact a parent or guardian of the child or youth” and the child or youth has been advised of his or her Miranda warnings. (Sec. 15 (b)). It further provides that admissibility will be assessed by a “totality of the circumstances” test at the time the admission or confession is given. (Sec. 15(c)). The distinction in age relative to the admissibility of admissions or confessions given by youths to adults in power is inappropriate and dangerous where it relates to the Constitutional right to remain silent and the knowing and voluntary waiver of that right. Indeed the very rationale for raising the age in the first instance is science’s recognition that adolescent brain development lags behind that of adults affecting youths’ ability to understand the consequences of their actions. Connecticut emerged into the 21<sup>st</sup> century recognizing that 16 and 17 year olds should be properly treated as children in the criminal justice system; to draw a distinction relative to this age group’s ability to understand fully the effects of self-incrimination is not only contrary to the science, but wholly unfair to that class of youths whose parents are not readily available or located.

The Constitutional right to remain silent is one of the most fundamental principles of criminal jurisprudence. As criminal practitioners we represent adults who struggle with a full understanding of this right, and the notion that remaining silent does not infer their guilt. Children and youths are the most vulnerable to intimidation by adults and cannot possibly be expected to knowingly and voluntarily give up their right to remain silent without the guidance of a parent or guardian in that critical moment of interrogation. This proposed law lends itself to discrimination against poor, urban youths, often of color, whose parents and guardians do not have phones or transportation, cannot be located or who cannot leave work. CCDLA urges upon this Committee the practice that children, including youths 16 and 17 years old, never be subjected to custodial interrogation or asked to give a written or oral statement of any kind outside the presence of a parent, guardian or attorney.

Statements of the accused provide the most damning evidence at trials; indeed cases of coerced confessions are some of the most difficult to try. Charges are often brought in

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the first instance, added or heightened as a result of statements from the accused. Adverse plea agreements result from the damning nature of the accused's statements. Trials are lost because of statements of the accused, and defendants have been wrongfully convicted because of the statements they've given under pressure of a custodial interrogation. WE MUST PROTECT OUR YOUTH from the consequences of being intimidated into making a statement or confession. WE MUST ENSURE that our youth understand the implications of giving a statement or confession. WE MUST GUARD Connecticut's youths' right to remain silent at all costs. The Raise the Age legislation sought to accomplish these goals and should not be compromised in its implementation for ease of process. No bureaucratic inconvenience or desire for administrative ease should interfere with this fundamental right at the peril of our children. Therefore, CCDLA respectfully urges this Committee to amend Raised Bill 6575 to delete Section 15 (b) and (c).

Sincerely,

Jennifer L. Zito, Vice President  
Connecticut Criminal Defense Lawyers Association

Edward J. Gavin, President, Thomas Ullmann, Past President, Conrad Seifert, President-Elect, Leonard Crone, Secretary, Moira Buckley, Treasurer, John Walkley, Parliamentarian, Richard Emanuel, Suzanne McAlpine and Elisa Villa, Members at Large