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Testimony Before the District of Columbia Council
Committee on the Judiciary and Public Safety
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Public Hearing:

B23-0039, the "Special Education Rights for Youth Defendants Amendment Act of 2019"
and

B23-0095, the "Protecting Children Through Mandatory Reporting Amendment Act of 2019"

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Introduction

Good morning Chairperson Allen and members of the Committee. My name is Buck Logan. I am an attorney at Children's Law Center and have lived in the District for thirty years. I am testifying today on behalf of Children's Law Center, which fights so every DC child can grow up with a loving family, good health and a quality education. With nearly 100 staff and hundreds of pro bono lawyers, Children's Law Center reaches one out of every nine children in DC's poorest neighborhoods – more than 5,000 children and families each year.¹ Children's Law Center supports both bills before the Committee today.

Special Education Rights for Youth Defendants Amendment Act of 2019

Let me first address B23-39, the *Special Education Rights for Youth Defendants Amendment Act of 2019*.

Under federal and District law, students with disabilities have a right to a free appropriate public education that emphasizes special education services designed to meet each student's unique needs.² This might include, for example, extra time to take a test, instruction in a smaller classroom setting, or behavioral support therapy. Children eligible for special education are also entitled to transition planning to promote access to post-secondary education or employment. The goal is to help students with disabilities enjoy the same educational opportunities as their peers so they can thrive as adults.

Under D.C. law, special education rights apply to students ages three to twenty-two. Students found eligible for special education and who haven't yet graduated generally remain eligible for services through the end of the semester they turn twenty-two.³

In our experience, however, these much-needed special education services can be seriously disrupted when a student with a disability enters the criminal justice system. Schools and agencies may not coordinate and share information. Educational records often aren't transferred promptly or sometimes at all. Special education services may be neglected. Classes can be missed and the student falls farther behind. Re-enrollment in the student's school can be delayed upon reentry. The upshot is that the student's right to an education can get lost in the system.

If we are serious about rehabilitation, if we are serious about ending the "school-to-prison pipeline," we must provide justice-involved youth the educational opportunities they are entitled to. These opportunities are a lifeline to a stable, healthy, productive future for young people often facing very difficult circumstances.⁴ A special education attorney can play a vital role in protecting these opportunities in a criminal justice proceeding.

Indeed, as you know, special education attorneys already play this role for minor children in delinquency and other proceedings in Family Court. The proposed legislation before the Committee today would simply take the logical step of creating a

separate panel of special education attorneys for 18-to-22 year-old defendants with disabilities in the Superior Court's Criminal Division.⁵

These education attorneys would advocate for special education and disability rights for youth defendants in adult criminal proceedings. An education attorney can help make sure school records are transferred quickly; coordinate with the various agencies and people involved in the student's education; help prevent any disruption to the student's education plan; help make sure the student continues to receive special education and social services; and help ensure the student receives transition services to prepare for life after high school. The special education attorney can help inform the Court about the young person's individual needs and disabilities and help foster outcomes that place youth defendants on a path toward a high school diploma and a more productive and successful life.⁶ We consequently support B23-0039.

Protecting Children through Mandatory Reporting Amendment Act of 2019

Children's Law Center also supports B23-0095, the *Protecting Children Through Mandatory Reporting Amendment Act of 2019*. This legislation would enhance existing law in a number of important ways. It would broaden the circumstances that trigger a reporting obligation; make clergy and religious institutions mandatory reporters of child abuse; stiffen penalties for failing to report abuse; and require training for mandated reporters.

Each of these measures will increase protections for neglected and abused children in the District. Children’s Law Center represents hundreds of kids every year who have been placed in the foster care system. We have seen first-hand how abuse and neglect can induce trauma and have life-long effects on a child’s behavioral, emotional, and mental health. The proposed legislation will promote faster and more effective interventions and thus greatly strengthen protections for children who most need our help.

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Thank you for the opportunity to testify before you today, and thank you, Chairperson Allen and Councilmembers, for your leadership on these important issues.

¹ Judges, pediatricians and families turn to Children’s Law Center to advocate for children who are abused or neglected, who aren’t learning in school, or who have health problems that can’t be solved by medicine alone. In addition to advocating for individual families and children, we advocate for city-wide solutions that benefit all children. See <https://www.childrenslawcenter.org/>.

² See 20 U.S.C. § 1400(b); 34 C.F.R. § 300.101; 5 D.C.M.R. § 3000.1.

³ 5 DCMR § 3002.1.

⁴ See, e.g., C. Dierkhising, *et al.*, “Trauma Histories Among Justice-Involved Youth: Findings from the National Child Traumatic Stress Network,” *Eur. J. Psychotraumatol*, 4: 10.3402 (2013) (“Up to 90% of justice-involved youth report exposure to some type of traumatic event. On average, 70% of youth meet criteria for a mental health disorder with approximately 30% of youth meeting criteria for post-traumatic stress disorder (PTSD). Justice-involved youth are also at risk for substance use and academic problems, and child welfare involvement.”).

⁵ B23-0039 would create a panel of special education attorneys for the court’s Criminal Division that would be separate from the special education panel currently used in Family Court. Children’s Law Center supports the creation of such a separate panel. It will help ensure funding for the new panel and facilitate the creation of a panel that has the expertise to address the unique needs of youth defendants in adult criminal court. An education attorney representing an adult youth defendant will need to be familiar with the laws and policies governing adult criminal proceedings, including sentencing, probation practices, and correctional facilities for adult defendants. The attorney should also have

experience with older special education students who have not yet graduated and have a near-term need for special education transition services to adjust to adulthood.

⁶ “GED and high school courses can significantly increase an inmate’s chance at a successful future after incarceration, and help keep him or her out of prison for good. Studies indicate that this especially true for young people. A 2003 New York study concluded that obtaining a GED while in prison reduced the chances of those under 21 from returning to prison after release by 14 percent. For those over 21, it was 5 percent.” <http://www.genfkd.org/prison-ged-courses-can-reduce-recidivism> .