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DIVISION OF PUBLIC DEFENDER SERVICES

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Testimony of Benedict R. Daigle, Deputy Assistant Public Defender
Office of Chief Public Defender

Committee on the Judiciary
March 12, 2021

Raised S.B. 960 – An Act Concerning Pretrial Alcohol and Drug Education Programs

The Office of Chief Public Defender (OCPD) recommends changes to strengthen this legislation and ensure consistency with Raised H.B. 6594, an omnibus proposal by OCPD and other criminal justice system stakeholders.

Consistency with Raised H.B. 6594 – An Act Concerning the Criminal Justice Process:[1]

OCPD requests consistency with Raised H.B. 6594. Specifically, sections 14 through 21 of that bill require that diversionary program fees be waived for certain indigent applicants and prohibit the imposition of community service requirements in lieu thereof.

OCPD requests that such waiver and prohibition language be incorporated into any legislation addressing such programs.[2]

Clear eligibility for the Pretrial Alcohol Education Program (AEP):

A person is ineligible for AEP if the person has used the program within the

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[1] *Raised H.B. 6594 – AAC the Criminal Justice Process* is the Committee's omnibus bill crafted primarily by OCPD and the Division of Criminal Justice (DCJ). That proposal resulted from extensive discussions, and OCPD's concepts therein were vetted with numerous stakeholders, including DCJ, the Judicial Branch, the Board of Pardons and Paroles (BOPP), and the Office of the Victim Advocate (OVA).

[2] For more information, please see OCPD's testimony on Raised H.B. 6594, available at https://portal.ct.gov/OCPD/Legislation/Connecticut-Public-Defender-2021-Legislature-Testimony.

preceding ten years, so that period of time must have a clear beginning and end. Current law references ten years from when the person "had such program invoked in such person's behalf," phrasing which has led to confusion and inconsistency, as it is interpreted sometimes as the application date and other times as the placement date. The provision starting at line 223 clarifies both ends of that period by stating that past _placement_ in the program cannot have taken place within the ten years preceding the present "date of application." However, the same ambiguity remains for a person's past participation in such a diversionary program for an offense in another state.

OCPD recommends that the same clarity noted above be added to the provision starting at line 227.

Fair accountability for program participants:

The provisions starting at lines 256 and 816 include items to which an applicant must agree in order to have the program granted, but the specific agreements proposed at lines 266, 268, 825, and 827 are unreasonable, as they fail to leave room for factors beyond an applicant's control.

To ensure that applicants are held to account only for factors within their control, **OCPD recommends that:**

- The specific agreements starting at lines 266 and 825 be changed to "The applicant will not willfully fail to complete any components of the program ordered by the court";
- In lines 268 and 827, the word "willfully" be inserted after the word "not"; and
- In lines 270 and 829, the phrase "engaging in" be deleted.

Focus on the educational and rehabilitative goals of diversionary programs:

Consistent with the programs' goals of promoting rehabilitation and reducing unnecessary contact with the criminal legal system, OCPD recommends the removal of the phrase "at the conclusion of such person's period of participation in the program" from lines 442 and 1005. Such removal will ensure that a person can move on after successfully fulfilling their program and treatment responsibilities.

Thank you for considering OCPD's perspective on this legislation.