



State of Connecticut

DIVISION OF PUBLIC DEFENDER SERVICES

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Testimony of Deborah Del Prete Sullivan, Legal Counsel Office of Chief Public Defender

Judiciary Committee - March 21, 2022

Raised Bill 5470 - An Act Concerning a Crime Victim's Participatory Rights in a Violation of Probation or Conditional Discharge Hearing

Mission Statement of the Division of Public Defender Services

Striving to ensure justice and a fair and unbiased system, the Connecticut Division of Public Defender Services zealously promotes and protects the rights, liberty and dignity of all clients entrusted to us. We are committed to holistic representation that recognizes clients as individuals, fosters trust and prevents unnecessary and wrongful convictions.

While not opposed to a victim appearing before the court at sentencing and making a statement or submitting one in writing, this office is opposed to permitting a victim to weigh in "prior" to a court's determination as to whether a violation has occurred. The burden of proof in these hearings is on the prosecution, who must show by a preponderance of evidence¹ that the defendant violated the terms of probation. Once the court has made this determination, the court must determine whether to revoke the probation.²

¹ "The state must establish a violation of probation by a fair preponderance of the evidence.... That is to say, the evidence must induce a reasonable belief that it is more probable than not that the defendant has violated a condition of his or her probation." (Citation omitted; internal quotation marks omitted.) [State v. Ellis T., 92 Conn. App. 247, 250, 884 A.2d 437 \(2005\)](#)." [State v. Durant, 94 Conn. App. 219 \(2006\)](#)

² "A revocation of probation hearing has two distinct components and two purposes. A factual determination by a trial court as to whether a probationer has violated a condition of probation must first be made. If a violation is found, a court must next determine whether probation should be revoked because the beneficial aspects of

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The proposed language at lines 71 through 74 would permit the court to consider the victim's statement, *prior to a VOP hearing and prior to the court's determination* of whether a violation was proven by the prosecution by a *preponderance of the evidence* based upon the evidence and sworn testimony presented at the hearing.

This office proposes that any consideration of the victim's statement should be permitted prior to the imposition of a sentence for the violation of probation, not prior to such a hearing or determination. This process would mirror what currently occurs in criminal proceedings at the sentencing hearing pursuant to C.G.S. 54-91c.

Therefore, this office respectfully requests that the placement of the language be changed so that it occurs prior to a sentence being imposed but after the court's determination of whether a violation occurred. Thank you for your consideration.

probation are no longer being served.... Since there are two distinct components of the revocation hearing, our standard of review differs depending on which part of the hearing we are reviewing.' (Internal quotation marks omitted.) [State v. Preston, 110 Conn.App. 809, 811, 956 A.2d 590 \(2008\)](#)." [State v. Sligh, 115 Conn App. 197 \(2009\)](#)