



**DIVISION OF PUBLIC DEFENDER SERVICES**  
**State of Connecticut**

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

**Committee on Judiciary – March 1, 2023**

**Raised H.B. 6787 – An Act Concerning the Prosecution of Cannabis-Related Cases and  
Modification of Sentences for Cannabis-Related Offenses**

**The Office of Chief Public Defender (OCPD) supports the intent of Raised H.B. 6787 – An Act Concerning the Prosecution of Cannabis-Related Cases and Modification of Sentences for Cannabis-Related Offenses (LCO 4860), and requests substitute language to advance efforts to correct the disparate impacts of past drug policies.**

**Section 1** addresses the prosecution of cannabis-related cases. In effect, it would apply public act 21-1 of the June special session, which was not retroactive, to cases currently being prosecuted, and to past conduct not yet charged. That is, it would halt the further prosecution of conduct no longer prohibited under Connecticut law. This office supports that purpose, which is aligned with efforts to alleviate the tragic and disparate impacts of past drug policies.

**Section 2** would mandate sentence modification hearings for persons **incarcerated** on cannabis-related offenses (including all cannabis-related offenses, not only the ‘no-longer-prohibited’ category specified in section 1).

**In terms of equity, this office requests that any such opportunity for modification be extended to include individuals in diversionary programs, on probation, or on parole for such offenses.** They, too, are living with the collateral consequences—including the continued risk of incarceration—of past drug policies.

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***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.*

Further, this office requests that the time barriers in subsection (c) in 53a-39 not be applicable to persons incarcerated on cannabis-related offenses for whom the sentence modification hearing is mandated under this proposal. Otherwise, a person denied upon such hearing would be precluded from filing their own motion for a period of five (5) years. A modification hearing as proposed in this bill—one not requested by an individual—should not trigger the 53a-39 filing preclusion.

Lastly, at a sentence modification hearing, the sentencing court or judge must find “good cause” to grant or partially grant a modification. If section 2 is intended to provide similar relief as section 1, this raises a concern. Specifically, since the aforementioned public act was not retroactive, there is no basis to conclude that citing it would constitute good cause to modify a sentence valid at the time of its imposition.

Based upon the aforesaid, if the Committee is not proposing full retroactivity of public act 21-1 of the June special session, this office submits for consideration the following in lieu of lines 27-38. Additionally, as noted, this office requests that 53a-39(c) be amended so it does not apply to hearings required under this proposed legislation.

(2) (A) On and after the effective date of this section, in the case of any defendant granted a diversionary program prior to, on or after the effective date of this section for a cannabis-related offense which is not a criminal action after the effective date of any section of public act 21-1 of the June special session applicable to such action, the court shall, not later than six months after such diversionary program has been granted or the effective date of this section, whichever is later, order a hearing and, if good cause is shown and where the defendant would not be in the program but for the alleged cannabis-related offense, vacate the granting of the program and dismiss the charge or charges for which the program was granted. For the purposes of this subparagraph, good cause shall include but not be limited to the fact that the action charged is not a criminal action after the effective date of any section of public act 21-1 of the June special session applicable to such action.

(B) On and after the effective date of this section, in the case of any defendant sentenced prior to, on or after the effective date of this section for a cannabis-related offense which is not a criminal action after the effective date of any section of public act 21-1 of the June special session applicable to such action, including as a result of a plea agreement, including an agreement in which there is an agreed-upon range of sentence, at any time prior to the conclusion of the sentence, the sentencing court or judge shall, not later than six months after such defendant has been sentenced or the effective date of this section, whichever is later, order a hearing and, if good cause is shown, vacate the conviction on the cannabis-related offense. Where the defendant would not have been sentenced but for the cannabis-related offense, the sentencing court or judge shall order the defendant discharged. For the purposes of this subparagraph, good cause shall include but not be limited to the fact that the cannabis-related offense is not a criminal action after the effective date of any section of public act 21-1 of the June special session applicable to such action. Nothing in this subparagraph shall otherwise limit the discretion of the sentencing court or judge to reduce the sentence.

This office requests that any Committee action on this bill address the issues identified herein. This office remains available to participate in any conversations pertaining to the passage of this bill. Thank you.