



DIVISION OF PUBLIC DEFENDER SERVICES
State of Connecticut

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TESTIMONY OF CHRISTINE PERRA RAPILLO, CHIEF PUBLIC DEFENDER
RAISED BILL 6594, AN ACT CONCERNING THE CRIMINAL JUSTICE PROCESS
JUDICIARY COMMITTEE
March 10, 2021

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.

The Office of Chief Public Defender strongly supports adoption of ***Raised Bill 6594, An Act Concerning the Criminal Justice Process***. This bill is primarily the result of the hard work and collaboration of both the Division of Criminal Justice (DCJ) and the Office of Chief Public Defender. We worked together to develop concepts that address a variety of specific issues impacting the criminal justice process. As a result, the public defenders are able to support DCJ's concepts, and they support ours. In addition, the proposal contains two proposals that originated in the Connecticut Sentencing Commission. That group is comprised of a broad variety of criminal justice stakeholders, including the Division of Criminal Justice and the Office of Chief Public Defender. Raised Bill 6594 will improve the fairness and accessibility of the criminal justice system, and we support the adoption of the bill as a complete package.

Sections 1 through 12 are proposals from the Division of Criminal Justice. These have been discussed and vetted, and the Office of Chief Public Defender supports passage of these proposals as part of this omnibus bill.

Sections 13 through 25 are OCPD's contribution to the bill. Most of these proposals came from our field staff attorneys and are aimed at making the application of our laws more just and fair, especially for the indigent clients we serve.

Section 13 amends the persistent felony offender statute (C.G.S. 53a-40) by limiting qualifying felonies to those within ten years of the instant offense. Older offenses would not be erased

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and would still be known to the court and the prosecutors, but they could not be used to enhance a sentence under the statute.

Sections 14 through 21 make access to diversionary programs more fair and just by eliminating fees and community service requirements for individuals who have been deemed eligible for public defender services and/or found indigent by the court. Connecticut has developed a robust array of diversionary programs, designed to make low-level and first-time offenders' interaction with the criminal legal system a targeted, rehabilitative, and brief intervention. These programs provide both accountability and essential services. They enhance an individual's ability to exit the system as a more productive citizen, without the long-term negative and collateral consequences associated with a criminal conviction. A recent analysis by the Connecticut Sentencing Commission found Connecticut's diversionary programs to be largely effective (see <http://ctsentencingcommission.org/publications>).

No one should be denied access to these programs due to an inability to pay. While the court will often waive the application and program fees upon proof of indigence, our clients currently will be ordered to do community service at an hourly rate to "work off" the fee prior to being allowed to enter the program. Even before the Covid-19 pandemic, community service hours were difficult to find and complete. Fifty hours of service can take months to complete, especially if the applicant has a job and a family. Despite hurdles in their lives, indigent applicants demonstrate their investment in rehabilitation through their participation in the court process and substantive program requirements. Again, the point of these diversionary programs is to make communities safer while limiting an individual's involvement in the criminal justice system. It makes sense to allow eligible low-level and first-time offenders quick access to the programs and services that will assist them in their return to their communities with their issues addressed.

Section 22 corrects a disparity in sentencing for individuals charged under C.G.S. Section 21a-257, which deals with prescription drugs being possessed outside of their pharmacy container. This proposal reduces the penalty for failing to keep a narcotic in the original container to a D misdemeanor and provides an exception for someone, who has a valid prescription and keeps their own pills in a pill storage box or a locked container within their homes. This may seem like a small change, but current law (C.G.S. 21a-222) sets the punishment for this offense at a fine of up to \$3500, imprisonment for up to two years or both, as a felony. We are concerned that current law allows too big a risk of disproportionate enforcement on our indigent clients and people of color. Changing the offense to a misdemeanor and allowing the exception is a more appropriate approach.

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Section 23 reduces the penalty for individuals who fail to respond to infractions and violations. Current law makes failure to pay or plead a class A misdemeanor, which carries the possibility of up to a year in prison and up to a fine of \$2000 and creates a criminal record for what is originally non-criminal conduct. In this proposal, the penalty is reduced to an unclassified misdemeanor, which ensures accountability without the threat of a disproportionate punishment stemming from non-criminal conduct.

Section 24 will significantly reduce the number of habeas petitions and court motions filed over claims of improper calculation of pretrial credit. Currently, if an individual has cases pending in multiple jurisdictions, it is difficult to ensure that pretrial confinement time is properly credited on each file. Individuals can lose credit for many months of incarceration and end up serving more time than was intended in the resolution of the case. This proposal provides a mechanism for the time to be credited automatically, providing that the court records are clear that all sentences were to be served concurrently.

Sections 25 through 27 are proposals generated by the Connecticut Sentencing Commission. Sections 25 and 26 reduce the school zone for a sentence enhancement for Possession of Paraphernalia or Possession with Intent to Sell from 1500 to 200 feet from the perimeter of the real property. This is an important change, since the school zone enhancement is almost exclusively charged in our cities due to the density of population and buildings.

Sections 28 modifies the law on sentence modifications and gives sentenced individuals increased access to court. Current law requires permission from the prosecution to pursue any modification of a sentence of more than three years. This proposal will allow any individual convicted after trial or, who was sentenced to seven years or less, the ability to move for a modification without the permission of the prosecutor. Anyone who had resolved their case for a sentence of more than seven years through a plea agreement, including an agreement where there is a cap and a right to argue for less, must still seek permission from the prosecutor for review of the sentence. In both cases, individuals seeking a sentence modification may file a motion for modification once every five years.

We thank the Committee for its consideration of this and request that this bill receive a joint favorable vote.