



**State of Connecticut**  
**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 Judiciary - March 31, 2021**

***House Joint Resolution No. 366 -  
Resolution Proposing a Constitutional Amendment to Remove a Prohibition Against  
Construing the Constitution or Statute to Create a Basis for a Criminal Conviction to be  
Vacated or Appealed if a Victim is not Afforded his or her Rights in Court.***

The Office of Chief Public Defender (OCPD) opposes *House Joint Resolution No. 366* (LCO 5904) ("HJ 366"), which would allow for an otherwise sound criminal conviction to be vacated or appealed if there is found to have been a violation of the identified victim's rights under subsection b. of article XXIX of the amendments to our state Constitution (i.e., victim rights during a criminal prosecution).

In a criminal case, the state's attorney controls the prosecution and has the burden of proving each element of the crime beyond a reasonable doubt. The judge ensures that the proceedings comport with the law. Depending on the case, various other professionals and laypersons also participate. A person accused and convicted of a crime controls none of those actors and must not face repeated prosecution should one of them fail to fulfill their obligations to a victim.

This office recognizes that the amendment proposed in HJ 366 could potentially benefit persons convicted of crimes in those few cases in which the victim not afforded their Article XXIX rights was supportive of a more rehabilitative and less punitive outcome for the accused. Hypothetically, an appeal could result in a more favorable outcome. However, that remote possibility does not outweigh the foreseeable harm.

The state and federal constitutional due process rights of the accused protect all of us. The amendment proposed in HJ 366 would subvert those rights, creating a situation in which the state could seek repeated opportunities to prosecute someone duly convicted under law.

Thank you for considering OCPD's perspective in opposition to HJ 366.