



**STATE OF CONNECTICUT  
JUDICIAL BRANCH**

**EXTERNAL AFFAIRS DIVISION**

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**Testimony of Deborah Fuller  
Judiciary Committee Public Hearing  
February 24, 2006**

**Senate Bill 156, An Act Concerning Court Operations**

Good afternoon. My name is Deborah Fuller and I appear before you today on behalf of the Judicial Branch to testify in support of **S. B. 156, *An Act Concerning Court Operations***, which was submitted as part of the Judicial Branch's legislative package.

This bill contains three provisions that were submitted by the Branch last year:

- An update to the statutory requirements regarding the protective order registry (§ 1);
- Establishment of a procedure governing the disposal of exhibits that are held by the court after the conclusion of criminal court cases (§ 2); and
- Consolidation of habeas cases in the Judicial District of Tolland (§ 3).

Section 1 of the proposal, regarding dissemination of restraining order information, would allow an information sheet, rather than a copy of the application, to be provided to law enforcement agencies. This sheet contains all of the information that is provided in the application, including information on whether the respondent allegedly holds a permit to carry a pistol or revolver, and whether the respondent allegedly possesses one or more firearms. Firearms information is included on the actually working document in the Registry, and is disseminated to police as soon as the order is entered in the Registry. However, under the current statutory language, the

state marshal is still required to manually send duplicative information to the same police departments. In addition, enhancements to the Registry are currently being rolled out that will allow re-dissemination of the firearms information after service has been accomplished, as well as the date and time of that service. To accomplish this objective, a telephone interface was designed to transmit service of process information from the state marshal to the Registry. A state marshal will be able to serve the order on the respondent, call in the service information to the Registry and the Registry will instantly send the service information electronically to the appropriate police departments, while updating various criminal justice databases.

In conclusion, the proposed language will streamline the service and documentation of critical restraining order information, and provide criminal justice agencies throughout the country with new information supporting state and federal firearms prohibitions.

Section 2 of the bill would allow the Judicial Branch to destroy or otherwise dispose of evidence that has been entered in closed criminal cases. A huge number of exhibits are currently stored at our courthouses, and we are simply running out of room. Many criminal courthouses have very little, if any, room to store new exhibits. This proposal would allow the clerk's offices to make room for new exhibits by disposing of very old exhibits, without requiring additional spending to create new storage space. The timeframes set out in the proposal accommodate the concerns regarding wrongful convictions, as they still require evidence to be kept for substantial periods of time.

Specifically, in cases that did not result in a conviction because the person was found not guilty, or the case against them was dismissed or not prosecuted, this proposal would allow any exhibits entered in that case to be destroyed or disposed of (which can include turning them over to the owner or another entity) ninety days after the final disposition.

In cases where a person has been convicted of a misdemeanor after a trial, or has been found to be a youthful offender, the proposal would allow exhibits to be destroyed

or disposed of ten years after the final disposition of the case. This would be long after any period of incarceration or other sentence had ended.

In cases where a person has pled guilty, the proposal would allow destruction or disposal of any exhibits that had been entered either ten years after final disposition, or upon expiration of the sentence imposed, whichever is later. So, for example, if a person pled guilty to robbery in the first degree, which is a class B felony, and was sentenced to 20 years imprisonment suspended after 15 years and 5 years probation, the exhibits in that case could not be destroyed or disposed of until after that person's sentence has ended -- 20 years after final disposition of the case. If a person pled guilty to a capital felony and was sentenced to death, the exhibits could not be destroyed until after the person was executed. If a person pled guilty to a capital felony and was not sentenced to death, since the mandatory sentence is life imprisonment without the possibility of parole, the exhibits could not be destroyed until after the person has died.

It is important to note that existing language, which is not changed by this proposal, requires that in any case in which a person has been convicted after trial of a capital felony, the official records of evidence may not be destroyed until 75 years after the conviction, and in any case in which a person has been convicted after trial of any other felony, the exhibits cannot be destroyed until twenty years after the final disposition of the case or expiration of the sentence, whichever is later.

In addition, the proposed language provides that in any case involving multiple charges, the longest applicable retention period applies. It also provides an opportunity for a hearing prior to the destruction or disposal of exhibits, ensuring that all parties will have an opportunity to object to the destruction or disposal.

Finally, section 3 of the proposal streamlines the consolidation of those habeas cases where the claim is illegal confinement or deprivation of liberty, resulting from a criminal conviction, by requiring that these cases be filed in the Tolland Judicial District, where they are currently being heard. I have reworked the language from last year to address concerns that were expressed then that it may have inadvertently deleted the right to other types of habeases.

As I mentioned above, all of the proposals in this bill were submitted last year. At that time, legitimate concerns about the proposals were expressed. I have re-drafted the proposals in an attempt to address all of these concerns, and am hopeful that they can move forward this year.

I would like to take this opportunity to respectfully request an amendment to this proposal, to address another issue. As the Committee may be aware, last year the legislature transferred to the function of providing attorneys to certain indigent clients from the Judicial Branch to a newly-created Commission on Child Protection. The funding for that function that was previously provided to the Judicial Branch was transferred to the Commission - in the amount of \$9.2 million. The language of the bill, however, did not transfer all of the functions funded by this \$9.2 million. It omitted situations that constitute approximately \$500,000 of the \$9.2 million. This proposed amendment to last year's language would ensure that the Judicial Branch is taken completely out of the business of contracting with attorneys and guardians ad litem to represent parties who appear before our judges. We have long felt that this function constituted an inherent conflict of interest. And, since the funding has been removed from our budget, all of the functions must go with the money. I have attached to my testimony an amendment that would accomplish this objective.

I thank you for the opportunity to testify, and respectfully urge the Committee to act favorably on this proposal.

1 **Proposed Amendment to S.B. 156, An Act Concerning Court Operations**

2  
3 Insert the following after line 97:

4 **Section 1.** Section 46b-123d of the general statutes is repealed and the following  
5 is substituted in lieu thereof:

6 The Chief Child Protection Attorney appointed under section 46b-123c of this act  
7 shall on or before July 1, 2006:

8 (1) Establish a system for the provision of: (A) Legal services and guardians ad  
9 litem to children and indigent respondents in family [contempt and paternity] matters,  
10 the cost of which the State of Connecticut has been ordered to pay, and (B) legal services  
11 and guardians ad litem to children and indigent [parents] legal parties in proceedings  
12 before the superior court for juvenile matters, as defined in subsection (a) of section 46b-  
13 121 of the general statutes, other than [representation of] legal services for children in  
14 delinquency matters. To carry out the requirements of this section, the Chief Child  
15 Protection Attorney may contract with (i) appropriate not-for-profit legal services  
16 agencies, and (ii) individual lawyers for the delivery of legal services to represent  
17 children and indigent [parents] legal parties in such proceedings;

18 (2) Ensure that attorneys providing legal services pursuant to this section are  
19 assigned to cases in a manner that will avoid conflicts of interest, as defined by the  
20 Rules of Professional Conduct; and

21 (3) Provide initial and in-service training for guardians ad litem and attorneys  
22 providing legal services pursuant to this section and establish training, practice and  
23 caseload standards for the representation of: (A) Indigent respondents in family  
24 contempt and paternity matters, and (B) children and indigent [parents] legal parties in  
25 juvenile matters, as defined in subsection (a) of section 46b-121 of the general statutes,  
26 other than [representation of] legal services for children in delinquency matters. Such  
27 standards shall apply to any attorney who represents children or indigent [parents]  
28 respondents or legal parties in such matters pursuant to this section and shall be  
29 designed to ensure a high quality of legal representation. The training for attorneys

30 required by this subdivision shall be designed to ensure proficiency in the procedural  
31 and substantive law related to such matters and to establish a minimum level of  
32 proficiency in relevant subject areas, including, but not limited to, family violence, child  
33 development, behavioral health, educational disabilities and cultural competence.

34 **Section 2.** Section 46b-123e of the general statutes is repealed and the following  
35 is substituted in lieu thereof:

36 (a) The judicial authority before whom a juvenile or family matter described in  
37 section 46b-123d, as amended by this act, is pending shall determine eligibility for  
38 counsel for a child or youth, or [and] the parents or guardian of a child or youth, if they  
39 are unable to afford counsel. Upon a finding that a party is unable to afford counsel,  
40 the judicial authority shall appoint the Office of the Chief Child Protection Attorney  
41 appointed under section 46b-123c. For purposes of determining eligibility for  
42 appointment of counsel, the judicial authority shall cause the parent or guardian of a  
43 child or youth to complete a written statement under oath or affirmation setting forth  
44 the parent or guardian's liabilities and assets, income and sources thereof, and such  
45 other information which the Commission on Child Protection shall designate and  
46 require on forms adopted by the Commission on Child Protection. Upon the  
47 appointment of [counsel for a parent, guardian, child or youth, the judicial authority  
48 shall notify the Chief Child Protection Attorney, who] the Office of Child Protection  
49 Attorney pursuant to this section, said Office shall assign the matter to an attorney  
50 under contract with the [Commission on Child Protection] Chief Child Protection  
51 Attorney to provide such representation.

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