



State of Connecticut

DIVISION OF PUBLIC DEFENDER SERVICES

OFFICE OF CHIEF PUBLIC DEFENDER
30 TRINITY STREET-4th Floor
HARTFORD, CONNECTICUT 06106

DEBORAH DEL PRETE SULLIVAN
LEGAL COUNSEL/EXECUTIVE ASSISTANT PUBLIC DEFENDER
(860) 509-6405 Telephone
(860) 509-6495 Fax
deborah.d.sullivan@po.state.ct.us

TESTIMONY OF DEBORAH Del PRETE SULLIVAN, LEGAL COUNSEL OFFICE OF CHIEF PUBLIC DEFENDER

Raised House Bill No. 5651 An Act Adopting the Recommendations of the Report of the Commission on Prison and Jail Overcrowding Judiciary Committee Public Hearing March 13, 2006

While not opposed to *Raised House Bill No. 5651, An Act Adopting the Recommendations of the Report of the Commission on Prison and Jail Overcrowding* in its entirety, the Office of Chief Public Defender is opposed to certain language as contained in Section 2 of this bill. As a member of the Commission on Prison and Jail Overcrowding, the Office of Chief Public Defender opposed this recommendation as it pertains to a "containment model". Section 2 would provide for a specific appropriation to the Board of Pardons and Paroles to:

"implement an evidence-based systemic approach to improving the management of offenders with problem sexual behavior in the community including (1) a containment model approach to assess, treat and supervise adult offenders with problem sexual behavior who are released to parole or special parole, and . . .".

Although not opposed to providing funding to the Board of Pardons and Paroles for the purposes of implementing a systemic approach to the assessment, treatment and supervision of adult offenders in the community who have problem sexual behavior, the office is opposed to the particular model to be implemented referred to as a "containment model approach".

Page 2 of 3 March 13, 2006 Judiciary Committee Public Hearing
Testimony - Deborah Del Prete Sullivan, Legal Counsel
Office Of Chief Public Defender

*Re: Raised House Bill No. 5651, An Act Adopting the Recommendations of the
Report of the Commission on Prison and Jail Overcrowding*

The typical containment model as described has the goal of community and victim safety as well as reparation for victims. (*See Managing Adult Sex Offenders in the Community: NIJ Research in Brief, National Institute of Justice, Office of Justice Programs, U.S. Department of Justice, January 1997.*) This office recognizes the importance and significance of these goals. Treatment, supervision and monitoring are essential components of the containment model. However, it is important not to lose sight of the constitutional rights of those who have been charged with an offense and have the right to plead guilty or proceed to trial. The advocates for the containment model consistently advocate for public policies which may not pass constitutional scrutiny and which have the potential to significantly impact upon the resources of the criminal justice system as it currently exists.

For instance, advocates of the containment model propose elimination of Alford pleas or the substitution of a lesser or other charge, even if the evidence supports such. This would violate the constitutional right of a person who stands accused and is presumed innocent until proven guilty. Advocates also recommend policies that risk stripping the prosecutors of their constitutional charging authority which empowers them to substitute charges in cases in which the elements of the offense have not been met or for other reasons as they have determined. Policies denying pretrial diversionary programs to persons charged with sexual offenses are also advocated within the containment model.

Polygraphs are endorsed by the model and used to obtain information that can then be used to determine risk assessment. Currently, usage of polygraphs in this state are paid for all or in part by the offender. However, such usage can impact upon a person's fifth amendment right against self-incrimination. In addition, the lack of any confidentiality during the treatment process, the difficulty in obtain housing or employment or the complete lack thereof impact negatively impact upon those persons who have completed their incarceration sentence and are trying to re-enter the community.

In addition, adoption of such could have a dramatic effect upon the business of the court where the majority of sexual offense cases are disposed by way of plea bargains. If all components of the containment model are inexistence, it is likely that more persons charged with such offenses will exercise their right to jury trials, thus increasing the need for resources throughout the court system.

Page 3 of 3 March 13, 2006 Judiciary Committee Public Hearing
Testimony - Deborah Del Prete Sullivan, Legal Counsel
Office Of Chief Public Defender

Re: Raised House Bill No. 5651, An Act Adopting the Recommendations of the Report of the Commission on Prison and Jail Overcrowding

And young offenders who have been convicted of consensual activity would also be subject to the possible loss of diversion programs and constitutional rights if the containment model is in place. The impact and stigma upon the youth who is labeled a sex offender for this type of consensual activity is not easily overcome if it is ever.

For the foregoing reasons, the Office of Chief Public Defender is opposed to this particular model proposed to be utilized through funding as a systemic approach.