



State of Connecticut
DIVISION OF CRIMINAL JUSTICE

TESTIMONY OF CHIEF STATE'S ATTORNEY CHRISTOPHER L. MORANO

IN SUPPORT OF:

S.B. No. 440 (RAISED) AN ACT CONCERNING JUVENILE JUSTICE

JOINT COMMITTEE ON JUDICIARY
MARCH 20, 2006

The Division of Criminal Justice respectfully requests the Committee's Joint Favorable Report for S.B. No. 440, which was included in the Division's legislative package to address unforeseen issues that have arisen in the implementation of Public Act No. 05-232. This is the major Act passed by the General Assembly last year concerning the Youthful Offender procedure.

As the Division testified previously before the Judiciary Committee, we believe Public Act 05-232 is working as intended. Although it has been in effect for less than four months, the vast majority of the cases covered by the Act are remaining on the Youthful Offender docket. They are not being transferred en masse to the adult court docket.

We would again reiterate that we share many of the concerns that have been voiced about the juvenile justice system. But the answer to those concerns does not lie in additional, sweeping overhaul of the system. Rather, the answer is the same now as it has been for many years. If we are serious about juvenile justice, we must devote the necessary resources for programs and services within the existing framework. This system has for too long been severely overtaxed and grossly under-funded.

That being said there are matters concerning the Youthful Offender system that must be addressed, but again these are relatively minor issues that were unforeseen when that legislation was enacted. This is the purpose of S.B. No. 440.

As for the other bills on today's agenda;

H.B. No. 5654: DCJ supports the proposition that motor vehicle violations should be removed from the parameters of YO treatment. We do not believe that, for example, that 16- or 17-year-olds should receive the benefit of the YO program for DUI charges. This bill attempts to remedy that default under the law passed last year. We would suggest, however, that the language of 5654 be amended, to make it crystal clear which motor vehicle violations should be excluded from YO treatment. We therefore propose the following amendment/addition to the language:

(3) "Crime" does not include a motor vehicle violation or violations for which a sentence to a term of imprisonment may be imposed.

This language is taken from the statute governing accelerated pretrial rehabilitation, 54-56e. There is some discrepancy in the law as to whether MV violations that carry a term of imprisonment are "violations" or "unclassified misdemeanors". This amendment would clarify the answer.

H.B. No. 5209: This bill proposes several different changes to P.A. 05-232. We agree with some of the proposals and disagree with others.

- Section 1 excludes certain Failure to Appear (FTA) and Violation of Probation (VOP) from treatment under YO. The proposal is limited and makes sense in light of the original charge, and treatment thereof.
- Section 2 proposes, in subparagraph (b) that probable cause findings for transfers be eliminated. It also seeks to make certain that a prosecutor's motion for transfer of felonies is NOT a final decision; rather it is a motion upon which the court must rule. This language strikes at the very core of the compromise agreed upon last year when this law was crafted. The remarks made by the members of this Committee on the floor of the House, made it clear that on a felony charge, the prosecutor has the sole discretion to send that case back to the regular docket. Statistics provided by the judicial department have shown that this provision has not been abused by prosecutors. Rather, the majority of felony cases have remained on the YO docket. To change this law in this fashion is contrary to the clear intent of the legislature in enacting P.A. 05-232 last year. This section also seeks to prevent a case, once sent to the regular docket, from being able to be transferred back to YO. That discretion needs to be permitted to the parties in the best position to make the decision: the attorneys.
- Section 4 subparagraph (b) is also troubling. It changes another essential element of the agreement, namely that if 16- and 17-year-olds are being given the presumption of unlimited treatment under YO, then users of narcotic drugs SHALL, not may as proposed, submit to periodic testing, and failures to report for testing SHALL, not may, have their probation violated.