

**CAPITAL DEFENSE AND TRIAL SERVICES UNIT
OFFICE OF THE CHIEF PUBLIC DEFENDER**

30 TRINITY STREET, 4TH FLOOR
HARTFORD, CONNECTICUT 06106-1634
(860) 509-6418 TELEPHONE
(860) 509-6497 FAX
ronald.gold@jud.ct.gov

RONALD GOLD
SENIOR ASSISTANT PUBLIC DEFENDER

**Testimony of Ronald Gold to the Judiciary Committee on March 12, 2007 Re An
Act Concerning the Procedure in a Capital Felony Case, Raised Bill No. 7365**

The Office of the Chief Public Defender supports this bill and asks that the Judiciary Committee give this bill a joint favorable report. It is requested that the legislature enact this bill which will bring Connecticut's death penalty procedure in line with the vast majority of the jurisdictions that have a death penalty. Currently, Connecticut case law gives judges discretion to order a retrial of a penalty hearing if a jury is unable to reach a verdict. If enacted this bill would require a trial judge to impose a sentence of life imprisonment without the possibility of release.

Penalty hearing retrials are as long and as expensive as the initial trials because a jury has to be death-qualified, a process that takes, based on my experience, a minimum of six weeks to a maximum of four months --- eight to ten weeks on average. The evidentiary portion of the penalty hearing will take almost as long as the first trial because the prosecution presents most if not all of its evidence in order to prove the aggravating factor(s) that it alleges and the defense presents all of its evidence to prove its claimed mitigating factors.

Of the 39 jurisdictions (including the federal government and the military) that have a working death penalty, only four (Alabama, Arizona, California and Kentucky) in addition to Connecticut allow for a retrial when a jury is unable to reach a verdict in a penalty hearing.

In *State v. Daniels*, 207 Conn. 374, 393-94 (1988), the Connecticut Supreme Court, when construing our death penalty statute to allow the retrial of a penalty hearing after a hung jury, "freely acknowledge[d] that [its] construction of §53a-46a places Connecticut alongside a very small minority of jurisdictions with regard to the proper procedure to be followed when the jury cannot unanimously agree. The majority of states have statutorily provided for an automatic sentence of less than death in the event of a deadlocked jury....**Whether our decision today calls for corrective action is a matter that only the legislature can decide.**" (citations omitted) (emphasis added).

Thank you for the opportunity to testify in support of this bill.