



*Office of Chief Public Defender
State of Connecticut*

30 TRINITY STREET, 4TH FLOOR
HARTFORD, CONNECTICUT 06106
TEL (860)509-6429
FAX (860)509-6499
susan.storey@jud.ct.gov

ATTORNEY SUSAN O. STOREY
CHIEF PUBLIC DEFENDER

**Testimony
of
Susan O. Storey
Chief Public Defender**

***Raised House Bill No. 7219
An Act Concerning the Trial of Drug-Dependent Persons***

***Judiciary Committee Public Hearing
February 26, 2007***

The Office of Chief Public Defender supports passage of ***Raised House Bill No. 7219, An Act Concerning the Trial of Drug-Dependent Persons***. In years past, various versions of this bill have been raised in an effort to provide a process which would permit a person charged with a violation of *C.G.S. §21a-278, Sale by a Non-Drug Dependent Person*, the ability to demonstrate drug dependency short of a trial on the merits of the case. In previous legislative sessions when similar bills were proposed, placing the burden on the prosecution to show that the defendant was non-drug dependant was met with much opposition.

This new proposal, however, places the burden of proving drug -dependency on the defendant, not the prosecution. The bill creates a process by which a defendant could file a motion with the court, well in advance of trial, for a determination of whether the defendant was drug-dependent at the time of the committing the offense. Similar to what currently occurs in a competency hearing, the defense could present the testimony of an expert and/or other witnesses and evidence on the issue of drug dependency. Thereafter the court would make its determination. If the court found the defendant to be drug- dependent, the court would then dismiss the charges. The prosecution, by right, could then file a substitute information charging the defendant appropriately as a drug dependent person. If the court found that the defendant was not drug-dependent, the court would proceed with the case pursuant to the original charges.

The bill serves a number of purposes. First, many defendants are over-charged when arrested for sale of narcotics. One explanation for this is that the arresting officers may have insufficient information regarding the defendant's drug usage at the time of arrest. A person charged with sale of narcotics by a non-drug dependent person faces a mandatory minimum sentence of 5 years if convicted. If a defendant is drug dependent, there is no such mandatory minimum and usually the defendant will be considered less culpable if convicted.

Pre-trial negotiations for a person who is non-drug dependent usually start with at least the 5 years mandatory time to serve. By creating a pretrial hearing process to determine drug dependency in advance of trial, defendants who are in fact drug dependent can be charged appropriately. It is also believed that the proposal will assist the court and counsel to expedite the process in those cases wherein the issue of drug dependency exists.

More importantly, persons determined to be drug dependent may be eligible for treatment options from which they would have otherwise been excluded had they continued to be charged as non-drug dependent. The goal should be to provide services to addicted persons to prevent relapse and recidivism. It is also possible that a bifurcated hearing process could decrease the numbers of incarcerated persons, both pre-trial and sentenced, thereby reducing prison overcrowding.

The Office of Chief Public Defender therefore respectfully requests that the Committee support this bill. Thank you.