



State of Connecticut
DIVISION OF CRIMINAL JUSTICE

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Testimony of the Division of Criminal Justice

In Opposition to:

**H.B. No. 7287 (RAISED) AN ACT CONCERNING A REQUEST FOR FINAL
DISPOSITION**

Joint Committee on Judiciary – March 5, 2007

The division of Criminal Justice strongly opposes H.B. No. 7286, an Act Concerning A Request For Final Disposition, and would respectfully request that the Committee reject this bill. This bill seems to require that any incarcerated person charged with a misdemeanor, be brought to trial within 60 days of arrest, whether or not that person is a sentenced prisoner.

Such a requirement would place an insurmountable burden on the orderly flow of criminal courtroom business. While some Part A cases would be affected, the 60-day time period for bringing a case to trial will paralyze the G.A. courts statewide. The G.A. courts handle serious felonies, misdemeanors, and motor vehicle cases, many of which carry criminal penalties. There are thousands and thousands of cases pending in our G.A. courts, in fact that is where the bulk or volume of cases lies.

Requiring a trial within 60 days of arrest is unreasonable given the time required to prepare for a trial. In addition to the time the lawyers need to adequately to prepare for trial, there are a myriad of other essential personnel and resources required for conducting any trial. These include first and foremost, Judges. Other essentials include courtroom staff, i.e. clerks, marshals, interpreters, and court reporters. How would we handle an increased need for jurors? Then there is the issue of having actual courtrooms available.

Most misdemeanor cases are disposed of with the use of a pretrial diversionary program, and aimed toward rehabilitation. It would be rare, if not unheard of that an individual would be held on bond for a first time misdemeanor offense. This bill seems to address situations where a person is charged with felonies (Part A or B) as well as misdemeanors on the same information. This bill would create different Speedy Trial time deadlines within the same file. This could allow for the filing of motions on the

misdemeanors 60 days prior to the felony time frame. Would this then require a severance of the charges and thus do away with the notion of judicial economy? What about issues of double jeopardy?

This bill also seems to address the defendant with multiple files in multiple jurisdictions. The public defenders office represents a great number of these defendants. In these situations there is often an attempt at a global disposition by the public defender, state's attorney and the judges to consolidate matters to allow for a rehabilitative program, or concurrent sentences. The time it takes to assign lawyers, find a bed for a program, and consolidate all matters at one geographical area far exceeds the 60-day period.

Most cases on our jury lists sit for far longer than 60 days. The availability of required resources is one of the reasons. Given that, any of the jurisdictions are going to give priority to the most serious cases, i.e., Part A cases, or serious felony Part B cases.

It is difficult enough with the 120-day limit to respond to the weekly influx of these Speedy Trial motions. These motions cause an interruption of the daily flow of business for the more important criminal matters. The bulk of these motions are from inmates who are represented by counsel, often times the public defenders, who do not notify their lawyers that they are filing them. Typically, they are prepared and filed by the jailhouse counselor, who is not an attorney. Often times their lawyers find out about the motion on the day that the person is brought in. This leaves hardly any time to prepare a defense.

Once filed, the process required to address them, adds a further drain on court resources. The case flow manager has to locate the file and interrupt the judge to review the information. There is no artful or magical formula in calculating speedy trial dates. It is literally a process whereby they count one for one, how many days the person has been incarcerated without interruptions such as release on bond and readmission, or new arrest. This often includes checking corrections records to verify that the readmission was for the same file. Often times it is not, and credit may not apply.

The problem that this bill seems to be aimed at is not the fault of any of the various offices involved in the criminal court process, but rather a culmination of the various constraints inherent in the system. Often times, at arraignment, the individual is represented by the public defender for bond purposes only. The next continuance date might be three to four weeks away. By the next presentment, the person might not have even hired his or her lawyer, or applied for a public defender. The case would continue again for another three to four weeks for eligibility. The continuance dates are not arbitrary or meant to punish, rather, they are a reflection of the press and volume of business in most of our courts. The dates are a function of the number of cases that can be responsibly handled by the court on any given day. It is also a function of how much space is available in the lock-up on any given day. If a public defender is assigned under this example, the 60 days has all but run. This does not even account for the possibility of conflict within the particular office, and the assignment of a special public defender, which would take another three to four weeks.

Perhaps most significant is the fact that there are a lot of misdemeanor cases that are as complicated as a Part A case. Some examples that come to mind are negligent homicide, DWI, and marijuana possession. The prosecution of a negligent homicide case requires, at the very least, accident reconstruction, inspection of vehicles, medical examiner reports, emergency room or treating physician reports, and scheduling of a medical examiner or treating medical doctor to testify. DWI's require toxicology reports from the lab, experts on horizontal gaze nystagmus test, and the contacting and scheduling of experts who might otherwise be scheduled for a Part A case. A simple possession case would also require lab tests and the lining up of the toxicologist.

In summary, the law in its present form is sufficient. Our statutes and practice book rules are reasonable as they stand, and they protect an individual from languishing in jail on untried charges. While it is still a scramble, at least the 120 days, gives the parties enough time to get the defendant into court, assign a lawyer and try to either resolve the case, or gather all the resources necessary to try it.

For these reasons, the Division of Criminal Justice opposes this bill and would respectfully urge that the Committee reject it. We would be happy to provide any additional information or answer any questions the Committee might have. Thank you.