



State of Connecticut

## DIVISION OF PUBLIC DEFENDER SERVICES

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Testimony of  
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Raised Bill No. 5797  
*An Act Concerning the Availability of Qualified Interpreter Services*

Human Services Committee  
March 4, 2008 - Public Hearing

Although not opposed to the proposed bill in its entirety, the Office of Chief Public Defender does not support subsections (b)(1) and (b)(2) of Section 1 of *Raised Bill No. 5797, An Act Concerning the Availability of Qualified Interpreter Services*. The bill appears to be well intentioned to protect persons who are deaf or hearing impaired who are witnesses, parties, victims or suspects in a criminal proceeding or investigation. However, the proposed bill as drafted does not go far enough in protecting the constitutional rights of a person in a criminal proceeding or an investigation.

This office does not oppose the draft language of lines 20 through 26, subsection (b)(2) of Section 1 which provides that in a criminal investigation law enforcement shall make "reasonable efforts" to provide a qualified interpreter to a victim, witness or suspect or that a custodial interrogation of a deaf or hearing impaired suspect is prohibited without a "qualified interpreter".

However, lines 26 through 28 then provide an exemption to this prohibition against law enforcement conducting a custodial interrogation if the suspect "after being apprised of his or her constitutional rights, knowingly and voluntarily waives his or her right to an interpreter." This office would oppose this exemption as it is concerned that a person who is hearing impaired or deaf may not be capable of waiving his/her constitutional rights against incrimination and to representation by counsel if unable to understand what he/she is

waiving. Lastly, there is no mandatory duty to appoint an interpreter for a suspect as the discretion to do so remains with law enforcement.

Likewise, this office has concerns in regard to subsection (b)(1) of Section 1 which would provide discretion to the court to request that a "qualified interpreter" be assigned to interpret for a party or a witness, who could be the defendant, in a criminal proceeding. There are circumstances where a witness may need to understand his/her constitutional rights, especially against self incrimination. Assignment of interpreters should be mandatory unless waived by the witness or party. And the court should canvass the person as to any waiver.

Lastly, the language contained in subsection (b)(3), requires law enforcement to make reasonable efforts to provide parents of children under the age of 16 with an interpreter. However, the language that follows in lines 40 through 43 is unclear as to whether these are alternative sources of interpreters and further does not require that the police request one or the other.

The Office of Chief Public Defender is willing to work together to draft language that would provide the constitutionally required protections discussed.