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Testimony of Deborah Fuller
Judiciary Committee Public Hearing
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Senate Bill 320, An Act Concerning Time Limitations on the Filing of Appeals and Habeas Corpus Applications in Capital Felony Cases

Thank you for the opportunity to submit written testimony on behalf of the Judicial Branch on **Senate Bill 320,** ***An Act Concerning Time Limitations on the Filing of Appeals and Habeas Corpus Applications in Capital Felony Cases.***

Policy decisions about procedures in capital felony cases are clearly within the purview of the Legislature. However, since some of the provisions of the bill do affect the operations of the Supreme Court and habeas corpus procedures, I would like to take this opportunity to provide you with some information about the impact that the requirements of this bill would have.

Section 1.

- Despite the stated purpose, subsection (a) actually lengthens the time frame for filing an appeal, which is currently 20 days.

- The requirement in subsection (a) that the Supreme Court consolidate any direct appeal with the sentence review required pursuant to section 53a-46b is unnecessary, since those procedures are already consolidated as currently required by subsection (c) of that statute .

- The requirement of subsection (b) that the defendant's and state's briefs be filed not later than four months after the date of the imposition of sentence does not appear to be viable:
    - Current practice is that it takes about a year for briefs to be filed;
    - The issues that are dealt with in these briefs are complex and important; and
    - The attorneys for both sides must be afforded adequate time to deal with these complex issues.

- The requirement in subsection (c) that the Supreme Court schedule oral argument no later than six months after the date of imposition of the sentence is not viable

    - Argument cannot be scheduled until after all the briefs are filed;
    - Currently, oral argument is scheduled as soon as the briefs are filed and the case is ready -- the exact scheduling of a particular case depends on the timing of when the case becomes ready and where that falls in the Supreme Court's schedule; and
    - Should the Committee feel it needs to provide some timeframe, we would respectfully request that the phrase *"as expeditiously as possible"* be substituted in lieu of *"six months"*.

Section 2:

- Subsection (a) establishes a timeframe of 180 days from the date of the imposition of sentence for filing a habeas, and a timeframe of 180 days after filing for the court to hold a hearing. It is unclear whether this time requirement applies only to hearings, or also to trials.

- The language doesn't appear to allow for a habeas for ineffective assistance of appellate counsel.

- Subsection (c) requires the Chief Court Administrator to designate one judge of the Superior Court to hear and decide all applications for a writ of habeas corpus filed by a person who has been sentenced to death. Currently, 3 judges are assigned to hear habeas corpus cases. This provision would limit our flexibility to determine the best way to handle these cases and may not be workable.

Thank you for your consideration of our concerns.