



State of Connecticut
DIVISION OF CRIMINAL JUSTICE

Testimony of the Division of Criminal Justice

In Opposition to:

Raised Bill No. 5715 – An Act Concerning Abatement of Public Nuisances by Municipalities

Joint Committee on Planning and Development – March 3, 2008

The Division of Criminal Justice opposes Raised Bill No. 5715 and respectfully recommends that the Committee take no action on this bill. The Division opposes this bill for the same reasons that we opposed similar proposals in the 2007 session:

- The State of Connecticut already has an exemplary Nuisance Abatement program established as a result of the leadership of the General Assembly in enacting the Nuisance Abatement and Quality of Life Act codified as Section 19a-343, et. seq.; and;
- Municipalities already have the authority this bill proposes to give them. Common law has long recognized the authority of a municipality to utilize civil action to abate a public nuisance.

The Nuisance Abatement Unit in the Office of the Chief State's Attorney works in conjunction with the State's Attorneys to utilize the Nuisance Abatement and Quality of Life Act to address problem properties in many of our communities.

Additionally, allowing municipalities to initiate their own nuisance abatement actions could lead to duplication of effort, inefficient or ineffective use of limited resources, and perhaps most importantly, unwise strategic decisions that could affect the criminal cases that predicated the action. When the Division of Criminal Justice brings a nuisance abatement case, we coordinate that action with the criminal cases so that any action taken to further the nuisance case will not affect the criminal cases. Decisions such as which witnesses to call and what evidence to admit are just some of the decisions that need to be made and must be coordinated with the criminal cases strategically. Allowing municipalities to pursue these actions could detrimentally affect these criminal cases.

The Division also strenuously objects to several specific provisions of Raised Bill No. 5715:

- We are at a complete loss to understand the logic of removing the promotion of an obscene performance, employing a minor in an obscene performance or child pornography violations from those offenses that can

trigger a nuisance abatement action. The Division opposes, in the strongest of terms, the deletions proposed in Lines 25 to 35.

- The Division is also at a loss to understand the logic of revising the conduct that can trigger a nuisance abatement action from "three or more arrests or the issuance of three or more arrest warrants" to "two or more convictions for violations." Such a change would essentially neutralize the ex parte language if not the entire process since it could easily take well more than a year to obtain such convictions, making the case ineligible for immediate ex parte relief. Further, this proposed change could make it nearly impossible to meet the 365-day window for eligibility. The Nuisance Abatement and Quality of Life Act was enacted so that swift action could be taken. To take the time for convictions would defeat the purpose of the law. When the legislature first enacted the Nuisance Abatement and Quality of Life Act, it was based on the New York version, which requires "incidents." The authors of our Connecticut law believed that would be too minimal a standard so they decided on arrests or the issuance of arrest warrants. It should be noted that the initial burden for the state is probable cause, so it logically follows that arrests or arrest warrants would be the proper underlying foundation for the case.

The Division of Criminal Justice must conclude that Raised Bill No. 5715 is a badly written version of a very bad idea. The bill is not only unnecessary, but if enacted would undermine the success of the Nuisance Abatement and Quality of Life Act. We would respectfully request that the Committee reject this proposal. The Division thanks the Committee for this opportunity to present our testimony and we would be happy to answer any questions or provide any additional information the Committee might request.