



State of Connecticut
DIVISION OF CRIMINAL JUSTICE

Testimony of the Division of Criminal Justice
Joint Committee on Judiciary – March 24, 2009

In opposition to:

- **S.B. No. 543 An Act Concerning Sentence Review**

The Division of Criminal Justice opposes S.B. No. 543, An Act Concerning Sentence Review, and would respectfully recommend that the Committee reject this bill. S.B. No. 543 would totally undermine the "truth in sentencing" provisions of Connecticut law while allowing inmates to endlessly seek modification of duly-imposed sentences.

The title of the bill itself is a misnomer in that S.B. No. 543 actually deals with motions for the modification of a sentence and not sentence review. Sentence review is governed by Sections 51-194 through 51-197 of the General Statutes, which establishes the sentence review division of the Superior Court. The purpose of the division, which consist of three judges of the Superior Court, is to determine whether the sentence imposed should be modified because it is "inappropriate or disproportionate in light of the nature of the offense, the character of the defendant, the protection of the public interest, and the deterrent, rehabilitative, isolative, and denunciatory purposes for which the sentence was intended". (See Practice Book Section 43-28)

Sentence review is available only to a defendant who is sentenced to three or more years of actual jail confinement where the sentence was not imposed pursuant to a plea agreement. The Sentence Review Division can either leave the sentence the same as that imposed by the sentencing court or it can reduce the sentence or increase it.

By contrast, S.B. No. 543 would revise the sentence modification process provided for in Section 53a-39 to eliminate the very reasonable and appropriate limitations that are now placed on motions for modification. The current law already allows a defendant to apply for sentence modification where any definite period of incarceration was ordered. Unlike sentence review, which must be requested within thirty days of the imposition of a sentence, a request for modification can be filed at any time during the sentence. The requirement that the prosecutor agree to a request for sentence modification applies only to a sentence of more than three years.

Despite its title, S.B. no. 543 would not impact the sentence review procedure whatsoever. It would completely bypass sentence review. What it would do is eradicate the very reasonable restrictions placed on the sentence modification process. Enactment of this legislation would give an inmate the right to file an endless stream of motions for modification of a duly-imposed and appropriate sentence. No sentence would ever be final.

Such a process would not only undermine the sentence review process, but it also would essentially create an end-run around the existing parole process undermining that process as well. Absent a reduction of sentence ordered as a result of the sentence review

process, it is the Board of Pardons and Paroles that determines if and when it is appropriate for an incarcerated individual to be released prior to the completion of the period of incarceration ordered by the sentencing court. This is only appropriate since the Board of Pardons and Paroles has the resources to investigate each case and evaluate the behavior of the inmate while incarcerated to make the appropriate decision on whether to grant parole or not. The sentence modification procedure envisioned in S.B. No. 543 would move this decision back to the sentencing court, which would not have the same facts that are available to the Board of Pardons and Parole and which does not have the resources to obtain those critical facts.

Finally, the Division would note the obvious fiscal note that would result from creating a system where virtually everyone incarcerated in our penal system could bring an endless series of motions to modify their sentences. Absent any evidence that the current system is not working or is subject to abuse, the Division believes such a sweeping change is not only unnecessary but unwise.

In conclusion, the Division of Criminal Justice respectfully requests the Committee's rejection of S.B. No. 543. The Division thanks the Committee for this opportunity to provide our input on this matter and we would be happy to provide any additional information or to answer any questions the Committee might have.