



State of Connecticut

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**Testimony of Brian Carlow, Deputy Chief Public Defender
Raised Bill No. 906, An Act Concerning the Collection of DNA Samples
Public Hearing - Public Safety Committee
February 24, 2009**

Although not totally opposed to Raised Bill No. 906, An Act Concerning the Collection of DNA Samples, the Office of Chief Public Defender is opposed to Section 1 and submits proposed language for Section 3.

Section 1 – Subsection (g) of Section 1 of the bill would amend C.G.S. §54-102g, *Blood or other biological sample required from certain offenders for DNA analysis*, to provide that a person who “fails”, whether intentionally or not, to provide a DNA sample as required by law is guilty of a D felony. Current law provides that a person who “refuses” to provide a DNA sample is guilty of a Class A misdemeanor. The Office of Chief Public Defender opposes this change for two reasons. First, the proposed language contemplates that “failing” to provide a DNA sample, even if unintentional, is equivalent to “refusal” to provide a sample. Failing to do something may be either intentional or unintentional. There are reasons why a person may unintentionally fail to provide a DNA sample including lack of transportation or physical or mental health issues. To assume that all failures are intentional and elevate unintentional conduct to the level of intentional conduct is inconsistent with current laws that differentiate between conduct that is intentional, reckless or negligent.

Secondly, the Office of Chief Public Defender opposes the enhancement of yet another offense from a Class A misdemeanor to a Class D felony. For years, a large number of offenses initially classified as misdemeanors have been enhanced to felonies. The result has been an increase in the number of persons arrested and convicted of felonies. Being charged with a felony can result in a higher bond being set at pretrial, a greater risk of incarceration upon conviction and a greater likelihood that a person will pursue postconviction remedies. All of these can result in a greater cost to the criminal justice system. In addition, a felony conviction has collateral consequences which impact upon

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the person. These include barriers to employment, education and housing. Accordingly, such felony convictions will not only impact those convicted but can also impact that person's family.

Section 3 - While not opposed to Section 3, the Office of Chief Public Defender respectfully requests that language be inserted which provides that "the Chief Public Defender or her designee" be added to the DNA Data Bank Oversight Panel. Inclusion on the panel would assist in insuring: (1) that inappropriately obtained samples from indigent individuals represented by a public defender are destroyed; (2) that all records and identifiable information pertaining to indigent persons represented by a public defender from whom inappropriately obtained samples were collected are purged; and, (3) that confidentiality of personally identifiable DNA information contained in the data bank is maintained and not breached.