



State of Connecticut
DIVISION OF PUBLIC DEFENDER SERVICES

OFFICE OF CHIEF PUBLIC DEFENDER
30 TRINITY STREET - 4th Floor
HARTFORD, CONNECTICUT 06106
(860) 509-6405 Telephone
(860) 509-6495 Fax

DEBORAH DeI PRETE SULLIVAN
LEGAL COUNSEL/
EXECUTIVE ASSISTANT PUBLIC DEFENDER
deborah.d.sullivan@jud.ct.gov

Testimony of
Deborah Del Prete Sullivan, Legal Counsel
Office of Chief Public Defender

Raised Bill No. 6573
An Act Requiring DNA Testing of Certain Arrested Persons
Judiciary Committee Public Hearing
March 6, 2009

The Office of Chief Public Defender opposes Sections 1 and 2 of *Raised Bill No. 6573, An Act Requiring DNA Testing of Certain Arrested Persons*. This bill requires that a DNA sample be taken from any person who has been arrested for committing any felony, prior to being released from custody. Current law requires only persons *convicted* of certain offenses, as specified by law, to submit a DNA sample. This proposed legislation would extend the DNA sample submission requirement to anyone accused of committing any felony even though he/she has not been convicted of a crime. The person's DNA sample is a genetic profile which would then be stored in the DNA data bank.

This bill requires DNA to be taken from persons who have not been convicted and who, pursuant to the federal and state constitutional protections, are presumed innocent unless and until proven guilty in a court of law. Obtaining DNA samples from arrestees circumvents the presumption of innocence and can result in a violation of the right to due process. Requiring DNA from every person who is arrested for such offenses may not only violate the constitutional protections afforded pursuant to the 4th amendment, but may violate a person's right to privacy. DNA reveals medical information about a person and persons who are related to him/her.

Section 2 places the responsibility for collection of the DNA sample upon the local police department that arrested the person prior to the person's release from custody.

Page 2 of 2

*Testimony - Deborah Del Prete Sullivan, Legal Counsel, Office of Chief Public Defender
Raised Bill No. 6573 - An Act Requiring DNA Testing of Certain Arrested Persons
Judiciary Committee Public Hearing - March 6, 2009*

Notwithstanding the burden this proposed legislation may place on police departments to collect the DNA samples, the proposed language is not clear whether the phrase "release from custody" includes persons released into the community only or includes those persons released into the custody of the Judicial Marshals or the Department of Corrections.

The Office of Chief Public Defender supports only that portion of section 3 which requires destruction of the DNA profile if a person's conviction has been reversed or in the case where the case was nolle or dismissed. As stated above, the Office is opposed to the proposed expansion to include felony arrestees. However, should felony arrestees be included, this office would support the suggested language to require automatic expungement of the DNA profile upon a nolle or dismissal of the charge.

In either circumstance, the Office of Chief Public Defender requests that language be inserted in line 126 to also require the destruction of the biological sample which was provided by the person and subsequently used to create the DNA profile.

For the reasons stated, the Office of Chief Public Defender requests that this bill as drafted not be adopted.