State of Connecticut

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

Public Safety and Security Committee February 18, 2010 Public Hearing

Raised House Bill No. 5155, An Act Concerning the Timing of Testing for Blood Alcohol Levels in Operating Under the Influence Cases

This office does not support this legislation. The legislation would allow a chemical test (breath, blood, urine) to be admissible evidence based upon expert testimony presented by the prosecution at an evidentiary hearing.

This legislation, if adopted, will permit noncompliance with the current statutory 2 hour requirement by allowing for the chemical test to be taken beyond the 2 hour time period. Current law requires that the chemical test be taken within 2 hours of the defendant's operation of a motor vehicle.

Cases that might have been resolved by utilizing the Alcohol Education Program or through a plea bargain could now require new evidentiary hearings before the court at which the reliability of the test will be litigated. In essence, these evidentiary hearings will become a battle of the experts.

This agency would be required to retain expert witnesses to refute the reliability of the test in order to comply with the constitutional obligation to provide effective assistance of counsel. As a result of an increased need for expert witnesses, the legislation could impact upon the financial resources of this agency. As a result, this office does not support passage of this bill.