



State of Connecticut
DIVISION OF CRIMINAL JUSTICE

Testimony of the Division of Criminal Justice

In Support of:

**H.B. No. 5253 (RAISED) An Act Concerning Revisions to Various Statutes
Concerning the Criminal Justice System**

Joint Committee on Judiciary
March 3, 2010

The Division of Criminal Justice respectfully recommends and requests the Committee's Joint Favorable Report for H.B. No. 5253, *An Act Concerning Revisions to Various Statutes Concerning the Criminal Justice System*. This bill incorporates many of the provisions of H.B. No. 6664 of the 2009 Regular Session, which was fully vetted through the legislative process but unfortunately failed to pass in the final hours of the session for reasons unrelated to its content. In fact, two of the subject areas included in last year's bill were subsequently addressed by the General Assembly through provisions of budget implementation bills. The Division extends its appreciation to the Judiciary Committee and to the full General Assembly for your assistance on these matters.

The remaining sections of last year's bill which are now included in H.B. No. 5253 address a variety of important statutory revisions that would contribute to the efficiency and effectiveness of the criminal justice system. The Division would emphasize that the bill specifically requires that its provisions be carried out within available appropriations and there would be no cost to the state. In fact, at least one provision, that dealing with jury duty, could in fact result in a revenue gain.

Sections 1 and 2 clarify sections 53a-172 and 53a-173 of the general statutes dealing with the crime of Failure to Appear. The bill would make it clear that an individual can be charged with Failure to Appear at any court hearing held pursuant to section 53a-32, Violation of Probation. This provision is offered in response to a ruling in New Haven where the Court dismissed a charge of Failure to Appear for an individual who appeared for the initial hearing under section 53a-32 but did not appear for a subsequent hearing after the case was continued.

Section 3 amends subsection (b) of section 53a-70, Sexual Assault in the First Degree, to allow judges to suspend the mandatory ten-year sentence if the defendant is under the age of 18 or whose mental capacity was significantly impaired but not so impaired as to constitute a defense to prosecution. There is precedent for such a change since this bill would create a sentencing scheme similar to that already provided for certain drug violations under section 21a-278.

Section 4 addresses the longstanding problem of "no-show jurors" or those who individuals who do not respond to a summons for jury duty. This section would eliminate the current unenforceable criminal provisions in favor of a civil procedure where a civil fine would be assessed for failure to respond to a summons. Enforcement would rest with the Office of the Attorney General, which already has authority over non-criminal legal matters. Similar procedures are already in use in other states. The Division would note that the State of Connecticut can take pride in the fact that the vast majority of the thousands of people called for jury duty each year do in fact carry out their civic duty.

However, as we noted last year, the State of Connecticut for some time has lacked an effective mechanism for dealing with the very small percentage of those summoned to who ignore their duty to serve. Criminal prosecution is not possible because there is no feasible way to prove beyond a reasonable doubt that an individual actually received the summons. A substantial increase in personnel and other investigative resources would be required to even attempt to successfully prosecute these cases. Further, the Division of Criminal Justice believes a civil enforcement procedure is preferable since the process for summoning prospective jurors is in no way a prosecutorial function. It is exclusively a judicial function and as such all aspects should be carried out within the Judicial Branch. Implementation of this change could actually have a positive fiscal impact by establishing a means for collecting some sort of financial penalty for failure to answer a jury duty summons.

Section 5 revises section 53a-137, which is the definitions section for Forgery and Related Offenses. The Division calls the Committee's attention to *State v. Raffa*, and *State v. Robert Kuchta* where prosecution was barred under the current definition. The bill would make it clear that an individual commits a crime when he or she signs a written instrument fraudulently representing that they had authority to sign in the capacity in which they did. The cases in question involved public officials who were charged with "signing off" on official building inspection reports when they did not have authority to do so.

Finally, section 6 of the bill would make Youthful Offender records available to law enforcement and prosecutorial officials conducting criminal

investigations. This language is similar to Section 46b-124(d) dealing with the confidentiality of juvenile records and would apply to youthful offender records. It would allow the prosecutors and law enforcement officers to have access to otherwise confidential youthful offender records when conducting an investigation. The section brings greater conformity to the statutes in the wake of the revisions to the Youthful Offender laws.

Again and in conclusion, the Division would respectfully recommend and request the Committee's Joint Favorable Report for H.B. No. 5253, which would contribute to the more efficient and more effective operations of the criminal justice system. We would be happy to provide any additional information or to answer any questions the Committee might have.

Respectfully submitted,

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