



STATE OF CONNECTICUT

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**Testimony of Michelle Cruz, Esq., State Victim Advocate
Judiciary Committee
Monday, March 7, 2011**

Good morning Senator Coleman, Representative Fox and distinguished members of the Judiciary Committee. For the record, my name is Michelle Cruz and I am the Victim Advocate for the State of Connecticut. Thank you for the opportunity to provide testimony concerning:

Raised House Bill No. 6427, *An Act Concerning Post-Conviction Procedures in Death Penalty Cases*

Raised House Bill No. 6439, *An Act Concerning Habeas Corpus Reform*

All crime victims have constitutionally protected rights through the criminal justice process. Those rights include, but are not limited to, the right to be treated with fairness and respect, the right to a timely disposition of the case, the right to be reasonably protected and the right to address the court at plea and at sentencing. In the limited number of cases for which the death penalty can be sought, crime victims are increasingly frustrated as death penalty cases take much longer to investigate, prepare for prosecution and beyond. Likely, surviving family members of capital felony cases where the death penalty has been imposed will never see an end to the criminal justice process and execution of the sentence. In addition, the majority of death penalty cases are high profile in nature, therefore, gain unsolicited attention by the media.

There is no doubt that Connecticut must address the habeas corpus structure, not only in capital felony cases, but all criminal cases. Most habeas corpus appeals are filed on a claim of ineffective assistance of council, among other claims. In some cases, the ineffective assistance of council claim is being filed as late as ten years and more after the conviction. This becomes problematic as witnesses, and even some attorneys, may have moved on or even died. Not only is it difficult for the state's attorney to investigate and litigate habeas corpus petitions that are filed after a long period of time, similarly the defense will also experience difficulties in proving their claim for the same reasons. In addition, the trauma of endless and often frivolous appeals, which are a constant reminder of the crime committed against the victim, leads to further harms and a feeling of helplessness for crime victims. Furthermore, in some cases, our current limitless habeas system is a tool for the prisoner to abuse in order to further victimize and harass the victim(s) and/or their families.

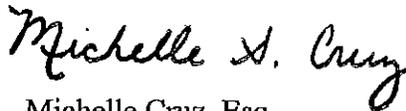
Additionally, offenders who have a valid and viable claim must wait for justice as the system processes numerous repetitive and frivolous claims by well seasoned

offenders. It has been well reported that there are high case loads of habeas appeals for Public Defender Services. I ask you to think what causes that large caseload? I suggest it is frivolous and repetitive claims. Every public defender takes an oath to zealously defend their client and unlike a prosecutor, there is no requirement per se to exclude frivolous or unwarranted claims; if the state were to instill time limits, the public defenders will be in a better position to focus on appropriately filed claims that are ripe for appeal. Furthermore, why do innocent people stay incarcerated so long? Again, frivolous claims bog down the system. Ironically, it is not only just but also economical to bring these cases of innocence to light quickly. Acquit the innocent, find the guilty and save money for the eventual lawsuits that wrongful incarcerations cause- a crass reality.

A fifty state survey was conducted by the Office of the Chief State's Attorney wherein thirty-one states and the federal government have adopted a statute of limitations for the filing of habeas corpus petitions. The majority of states allow for a one to two year statute of limitations; the federal government provides for a one year statute of limitations. The proposals herein recommend a three year statute of limitations. If other states have successfully restructured the habeas corpus system, why is Connecticut lagging behind. The current structure is only a waste of precious resources; resources that Connecticut cannot afford to waste.

Connecticut is often ahead of other states with the passage of groundbreaking legislation; unfortunately, that is not the case with a statute of limitations for habeas corpus filings. I strongly urge the Committee to support Raised House Bill No. 6427 & 6439 and bring finality for crime victims as well as the criminal justice system. Thank you for consideration of my testimony.

Respectfully submitted,



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