

CCDLA
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Judiciary Committee Public Hearing

**RAISED BILL NO. 6473
AN ACT CONCERNING PERSISTENT FELONY OFFENDERS
March 23, 2011**

**TESTIMONY OF JENNIFER L. ZITO, PRESIDENT OF THE
CONNECTICUT CRIMINAL DEFENSE LAWYERS ASSOCIATION,
IN OPPOSITION TO RAISED BILL NO. 6473**

Chairman Coleman, Chairman Fox, and Distinguished Members of the
Judiciary Committee:

CCDLA opposes passage of Raised Bill No. 6473 seeking to remove repeat violent offenders from the community permanently by replacing our present three strikes law calling for a sentence of not less than three times the minimum sentence nor more than life in prison for persistent third time felony offenders with a sentence of life in prison without the possibility of parole. CCDLA opposes the harsh mandatory sentence on the following grounds:

1. Mandatory sentences blindly remove the imposition of appropriate, individualized sentences from judicial discretion. Judges have the unique ability to sentence individuals in light of the evidence presented with the input of prosecutors, victims, defense lawyers, mental health professionals, probation officers and other experts to guide an appropriate sentence based on age, circumstances, remorse, rehabilitation, victimization and the like. The current law provides sufficient punishment for violent third time offenders often resulting in life sentences;

2. This lifetime sentence without the possibility of parole will unduly punish minors and young offenders who are statistically offending at a greater rate, and who are logically the largest class of repeat offenders. With all we have learned about adolescent brain development and its affect on judgment and understanding consequences, it seems imprudent to risk application of this law to young people who are the most likely to be affected by it. The U.S. Supreme Court, in 2010 in *Graham v. Florida*, held that sentencing minors to life without parole for crimes other than murder violates the 8th Amendment ban on cruel and unusual punishment. Application of this law to minors will run afoul of the 8th Amendment;
3. This proposed statute will, like other mandatory minimum sentencing schemes, result in racial and ethnic disparities among those sentenced. We need to be particularly sensitive to statutory schemes that risk discrimination in application because Connecticut already ranks high in the U.S. in its level of disparity in incarceration rates of Caucasian, African American and Latino/Hispanic offenders;
4. Sentencing decisions of this magnitude should be studied and left to recommendations of the newly created Sentencing Commission in Connecticut. It is precisely this type of legislation that should be guided by the findings of the Sentencing Commission, which this Committee largely supported through the efforts of Vice Chairman Kissel;
5. Life in prison without the possibility of parole will only contribute to Connecticut's prison overcrowding problems and fiscal burdens. At a time when the legislature should be and is looking at different ways to reduce the costs of government, increasing the possibility of longer, mandated sentences for already prohibited conduct will only serve to impose a greater financial burden on state government and the people of Connecticut;
6. Should the death penalty be repealed in Connecticut, the sentence of life in prison without the possibility of parole should

be reserved for the most heinous capital felony offenders;

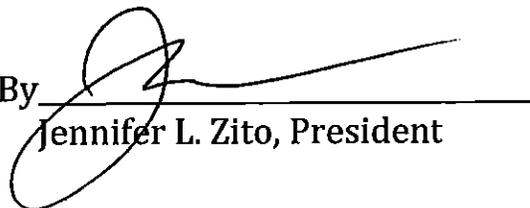
7. The Parole Board --not the Legislature--should be left to its discretion with the input from victims, prison records, court records and offender histories, to determine if an individual is safe to be released into the community under its supervision rather than warehousing offenders notwithstanding circumstances warranting release.

8. There is an inherent risk in removing traditional common law discretion in sentencing. Almost three decades ago, and with the best of intentions, the late Senator Ted Kennedy introduced legislation seeking sentencing reform in federal courts. It was called the Federal Sentencing Guidelines and required what amounted to mandatory minimum sentences for various crimes even though many of the statutory offenses did not have mandatory minimum terms of incarceration. This legislation became law until the United States Supreme Court declared the Guidelines unconstitutional in 2005 and remedied the problem by making the Guidelines advisory.

For the foregoing reasons, CCDLA opposes passage of Raised Bill No. 6473 seeking repeal of CGS Section 53a-40 and substituting language for third offenders mandating sentences of life in prison without the possibility of parole.

Respectfully Submitted, CCDLA

By



Jennifer L. Zito, President

