



State of Connecticut

## DIVISION OF PUBLIC DEFENDER SERVICES

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**Testimony of  
Michael Alevy, Senior Assistant Public Defender  
Office of Chief Public Defender**

***Raised Bill No. 6639*  
An Act Concerning Pretrial Diversionary Programs**

**Judiciary Committee Public Hearing  
April 4, 2011**

The Office of Chief Public Defender supports passage of *Raised Bill No. 6639, An Act Concerning Pretrial Diversionary Programs*.

Section 1 of this raised bill makes several changes to subsections (a) to (c) inclusive, of C.G.S. 54-56e, the Accelerated Pretrial Rehabilitation program (AR). The first change found in section one removes the prohibition on program eligibility to persons who have been adjudged a youthful offender within the five year period preceding the application. This Office supports this change. The existing prohibition severely limits judicial discretion and impedes a court's ability to arrive at appropriate resolutions in cases involving young offenders. The defendants in the cases affected are exclusively teenagers and young adults in their early twenties. Limiting access to diversionary programs for appropriate young offenders creates significant adverse consequences for these, most vulnerable, at-risk members of our communities. Young adults with criminal convictions, even for the most minor offenses, are at a significant disadvantage as they seek to find employment, achieve educational success and move forward in life. Removing this limitation to AR eligibility will help these individuals achieve the goals that the diversionary program aims to foster in cases determined to be appropriate by the court.

The second change found in section one also expands eligibility to those charged with minor drug offenses. Currently, persons who are eligible for the Drug Education Program or who have previously used that program are not eligible to use the AR. This Office supports this expansion

of AR eligibility. Allowing persons charged with minor drug offenses to use AR will expand the opportunities for those individuals to receive appropriate educational and therapeutic services to address underlying substance abuse problems. The AR program, a form of conditional pretrial probation enables courts to impose and monitor a wide range of conditions in exchange for participation in the program.

**Section 2** of the raised bill amends C.G.S. 54-56i, the Pretrial Drug Education Program by expanding program eligibility to persons that have previously used the pretrial community service labor program. For reasons similar to those discussed regarding **Section 1**, this Office supports this bill. Courts should have the ability to exercise their discretion in permitting utilization of diversionary programs. The appropriate exercise of this discretion will further the goals and policies that such diversionary programs seek to achieve.

**Section 3** of the raised bill provides for the creation of a new diversionary program for veterans of the armed services charged with crimes and certain motor vehicle offenses. The new program would be available to any veteran who demonstrates that they suffer from service-related traumatic brain injury or post-traumatic stress disorder. Eligibility criteria mirror those currently found in existing diversionary programs. This new program recognizes the unique circumstances and challenges faced by veterans of our armed forces as the return to civilian life. The language of the bill calls on the Department of Mental Health and Addiction Service and the Department of Veterans' Affairs to find programs and resources that address veterans' unique needs. The Office of Chief Public Defender strongly supports this section of the bill.

**Section 4** of the raised bill amends C.G.S. 54-56m, Mediation Programs. The raised bill expands the number of mediation programs operating in the geographical area courts (GA). Currently, mediation programs are established in only selected locations. The new bill would allow the Judicial Branch to expand mediation programs to all GA courts. Existing mediation programs provide a valuable resource to courts. Courts refer selected cases to mediation which permits the parties involved to meet and work towards a resolution to the underlying dispute. If mediation is successful the prosecutor may nolle the case and terminate the prosecution.

This Office strongly supports the expansion of the mediation programs. Our experience with the existing programs demonstrates that the mediation process is an important and effective means of resolving cases in a non-adversarial process that satisfies the interest of all the parties involved. In addition to diverting certain cases from regular dockets this Office believes that in some cases the parties involved also gain insights into alternative means of dispute resolution that will assist them in the future and perhaps reduce recidivism.

The Office of Chief Public Defender thanks the Committee for raising this important issue and urges a favorable report on the bill.