



**State of Connecticut**  
**DIVISION OF CRIMINAL JUSTICE**

**TESTIMONY**

*JOINT COMMITTEE ON JUDICIARY*

*In opposition to:*

**H.B. No. 6539 (RAISED):**  
**An Act Concerning Sentence Modification**

*March 9, 2011*

The Division of Criminal Justice opposes H.B. No. 6539, An Act Concerning Sentence Modification, and would respectfully recommend the Committee take no action on this bill. The bill is essentially the same as S.B. No. 543, An Act Concerning Sentence Review, of the 2009 Regular Session, which the Division opposed and which did not pass. Nothing has changed in the past two years to change our opposition to this bill. Further, should the Committee decide that review is needed in this area we would respectfully suggest that the task would appropriately be assigned to the Sentencing Commission established pursuant to Public Act 10-129, since codified as Section 54-300 and effective on February 1, 2011.

H.B. No. 6539 would eliminate the very reasonable and appropriate limitations that apply to motions for sentence modification. The current law already allows a defendant to apply for sentence modification for any definite sentence of three years or less. If the sentence is more than three years, sentence modification can only be sought with the agreement of the defendant and the state's attorney for consideration of the request for modification. The reason for this is that the remedies of sentence review and release on parole are not available to defendants sentenced to less than three years. The purpose of the statute allowing a defendant sentenced to more than three years to file a motion for sentencing modification is to deal with truly extraordinary circumstances that develop after the sentencing that were not contemplated by the court at the time of sentencing. It was never intended to be an unrestricted third avenue of relief and should not be made so.

Enactment of H.B. No. 6539 would give an inmate the right to file an endless stream of motions for sentence modification. The sentence appropriately and duly imposed would become meaningless in that no sentence would ever be final. Such a process also would undermine the existing sentence review procedures provided in sections 51-194 through 51-197 of the General Statutes, which establish the sentence review division of the Superior Court.

It also would create an end-run around the existing parole process undermining that process as well. Such an action would be inconsistent with the work of the General Assembly in recent years to carefully examine and strengthen the parole process and the protections it provides for public safety. As we stated two years ago in opposing this same concept then, absent a reduction of sentence ordered as a result of the sentence review process, it is the Board of Pardons and Paroles that determines if and when it is appropriate for an incarcerated individual to be released prior to the completion of the period of incarceration ordered by the sentencing court. We would also note again that the sentencing court would not have the resources to obtain the facts that are collected and evaluated by the Board of Pardons and Paroles concerning each individual inmate before it determines if parole is appropriate.

Finally, the Division would also state the obvious: the bill provides no funding to the Division, the Judicial Branch or other agencies involved to implement this bill. The courts would be flooded with petitions, each of which is going to require a hearing with some modicum of due process. The cost in court time, prosecutors, time and other resources would be enormous. The Division is not aware of any specific cases of abuse or specific examples where the proponents of this bill would contend the current system is not working. Given the expected substantial fiscal impact and the lack of any showing that a problem exists, the Division would respectfully request the Committee take no action on this bill. We would be happy to provide any additional information the Committee might require or to answer any questions you might have.