



State of Connecticut  
DIVISION OF CRIMINAL JUSTICE

**Testimony of the Division of Criminal Justice  
Joint Committee on Judiciary**

**March 19, 2012**

**In Support of:**

**H.B. No. 5502: An Act Concerning Standing to Appeal a Zoning Decision  
and Municipal Power to Obtain a Search Warrant**

The Division of Criminal Justice fully supports the concept of section 2 of H.B. No. 5502, An Act Concerning Standing to Appeal a Zoning Decision and Municipal Power to Obtain a Search Warrant, but suggests that the legislature strengthen the bill to make sure that our state and local building, health, fire, zoning and other enforcement officials have the tools they need to conduct necessary inspections to ensure public safety, health and well-being. The Division takes no position on section 1 of the bill.

This legislature has long recognized that public officials must be able to conduct inspections at appropriate times if they are to ensure the health and safety of our citizens. Our statutes are replete with laws that allow officials, both state and local, to conduct inspections to minimize the risks to the public. See, e.g., Conn. Gen. Stat. Sec. 29-305 (authorizing state and local fire marshals to conduct both periodic and complaint based inspections in the interest of public safety); Conn. Gen. Stat. Sec. 29-383393 (authorizing local building officials to conduct inspections in the interest of public safety when information is received that a hazardous condition exists); 19a-206 (authorizing local public health director to enter all places within his jurisdiction when there is cause to suspect any nuisance or source of filth exists). Similarly, our Supreme Court has recognized that inspections for zoning violations help further a municipality's legitimate interest in promoting health and the general welfare and in protecting property values. See, *Bozrah v. Chmurynski*, 303 Conn. 676, 691 (2012).

Most of the time, our officials are able to conduct these inspections with the consent of the party being inspected. See, *Camara v. Municipal Court*, 387 U.S. 523, 539 (1967); see also, *Bozrah v. Chmurynski*, supra at 691. What this bill would do is allow our municipalities to obtain an administrative search warrant to conduct some of these searches when the person refuses to consent. The problem with the bill is that it simply does not go far enough.

First, while the bill does authorize municipalities to obtain search warrants to aid in the enforcement of municipal ordinances and regulations it does not allow them to obtain warrants when they are seeking to enforce state statutes and codes. This is a particularly glaring omission in light of the fact that municipal officials often are authorized to enforce state codes.

See, Conn. Gen. Stat. Sec. 29-292 (fire safety code); Conn. Gen. Stat. Sec. 29-291a, et seq. (fire prevention code); Conn. Gen. Stat. Sec. 29-252 (state building code); and Conn. Gen. Stat. Sec. 19a-36 (state health code).

Another problem is that it would not allow state enforcement authorities to obtain administrative warrants. There simply is no reason why a state official with probable cause to enforce a state statute, regulation, or code should not be able to obtain a warrant for entry to conduct an administrative inspection.

In supporting the concept of this bill, the Division of Criminal Justice notes that the warrants described in the bill are not criminal search warrants which would authorize officials to seek evidence of criminal activity; they are administrative search warrants which would allow officials to search for dangerous and potentially life threatening conditions. (We would note, however, that while the searches would not be conducted for the purpose of locating evidence of a criminal violation any evidence found could potentially be admissible in a criminal action if the search were not shown to violate constitutional standards.) These administrative search warrants are aimed at prevention of injuries to persons or property, not at a criminal arrest. In nearly all circumstances, where violations are found upon entry, the people responsible for the conditions would be given the opportunity to remediate them by order of the official; which is appealable at law, before they would be subject to any further enforcement action for the conditions themselves.

The passage of a statute authorizing public officials entrusted with enforcing our health, building, fire, and zoning codes and ordinances to obtain administrative search warrants will significantly aid in advancing the interests of public safety. The Division of Criminal Justice stands prepared to work with the legislature and other interested parties to ensure that a statute is passed that will truly benefit public safety.