



STATE OF CONNECTICUT

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**Testimony of Michelle Cruz, Esq., State Victim Advocate
Submitted to the Judiciary Committee
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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:

House Bill No. 5554, 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.

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 harm and a feeling of helplessness for crime victims. In some cases, our current system of limitless habeas appeals is a tool for the prisoner to abuse in order to further victimize and harass the victim(s) and/or their families.

Moreover, 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. 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. This will result in bringing legitimate claims forward swiftly which is more economical.

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 proposal herein recommends a five year statute of limitations for new petitions; a two year statute of limitations for subsequent petitions filed on the same conviction; and a two year statute of limitations after assertion of cognizable constitutional or statutory right(s). As compared to the statute of limitations in the majority of states, the proposal is more than generous with time. Other states have successfully restructured the habeas corpus system, Connecticut is lagging far behind. The current structure is only a waste of precious resources; resources that Connecticut cannot afford to waste.

The passage of House Bill No. 5554 will finally infer the crime victim's right to a timely disposition; there will be an end to the criminal justice process. Although the rights of crime victims have existed for more than fifteen years, much like the path of Gideon and Miranda, crime victims' rights have been slow to materialize. House Bill No. 5554 may finally bring substance to the crime victims' right to timely disposition.

Connecticut is often ahead of other states with the passage of groundbreaking legislation, unfortunately, that is not the case with the statute of limitations for habeas corpus filings. The absence of a statute of limitations for habeas corpus petitions has been clearly and articulately identified as problematic. House Bill No. 5554 is a fair and reasonable solution as well as an eventual cost savings benefit to the state. I strongly urge the Committee's favorable report on House Bill No. 5554.

Thank you for consideration of my testimony.

Respectfully submitted,

Michelle S. Cruz

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