



State of Connecticut
DIVISION OF CRIMINAL JUSTICE

**Testimony of the Division of Criminal Justice
Joint Committee on Judiciary
March 12, 2012**

In Opposition to:

S.B. No. 279: An Act Concerning Sentence Modification

The Division of Criminal Justice respectfully opposes S.B. No. 279, An Act Concerning Sentence Modification, and recommends in the strongest terms the Committee's rejection of the bill. S.B. No. 279 would essentially erase the concept of final judgments in criminal cases and transform every disposed criminal case into a never-ending sentencing hearing any time a defendant wished to file a request for sentence modification. This would undermine negotiated pleas, and, more importantly deprive the victims of crime from ever having any sense of finality in the criminal process.

The bill would eliminate the current requirement that prosecutors agree to the court hearing most sentence modifications. Any inmate sentenced to more than three years already may apply for sentence review and for parole (the only exceptions being those convicted of Capital Felony, for which there is no possibility of release, or Murder, for which there is no parole) as well as for a commutation of sentence or a pardon. Since these remedies already exist for those sentenced to more than three years, the General Assembly deemed sentence modification for these individuals an extraordinary remedy and thus established the reasonable requirement that the prosecutor agree to the consideration of any such requests.

The process works well. It ensures the finality of judgments in serious criminal cases, reduces the burden on the courts having to hear requests which should be directed to other forums and serves as a de facto enforcement mechanism on sentences resulting from negotiated pleas. A defendant sentenced to three years or less already can apply for sentence modification without agreement with a prosecutor. For those sentenced to more than three years, sentence modification is reserved to deal only with truly extraordinary circumstances that develop after the sentencing that were not contemplated at the time of sentencing. That is why the agreement by the prosecutor is required. Sentence modification was never intended to be an unrestricted fourth avenue of relief in addition to sentence review and parole and should not be made so as would result from passage of S.B. No. 279.

S.B. No. 279 would render the sentence appropriately and duly imposed by the trial court meaningless because no sentence would ever be final. The determination of the sentence in a criminal case is not a matter that is taken lightly. All involved - the judge, the prosecutor, the

defense attorney and those who conduct the pre-sentence investigation – put much thought and effort into the process. Enactment of S.B. No. 279 would give an inmate the right to file an endless stream of motions for sentence modification. Such a process would show utter disregard for all that goes into the determination of an original sentence. It also would subject innocent victims of crime to unnecessary grief as they are forced again and again to relive the trauma of the crime through never-ending hearings for sentence modification.

S.B. No. 279 undermines 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. The bill also threatens to create an end-run around the existing parole process. 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 have stated on multiple occasions in opposing this same legislation in the past, 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 court hearing a motion for sentence modification would do so without having the resources to obtain the facts that are collected and evaluated by the Board of Pardons and Paroles concerning each individual inmate before the board 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 notification to a victim with an opportunity to respond in writing and notice and right to attend and speak at any hearing held on the motion. Given the expected substantial fiscal impact and the lack of any showing that a problem exists, the Division would respectfully request the Committee reject this bill. We would be happy to provide any additional information the Committee might require or to answer any questions you might have.