



**STATE OF CONNECTICUT
JUDICIAL BRANCH**

EXTERNAL AFFAIRS DIVISION

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**Testimony of Deborah J. Fuller
Judiciary Committee Public Hearing
April 15, 2013**

H.B. 6692, An Act Concerning Participation in a Program of Community Service for Persons Seeking Fee Waivers in Certain Civil Actions

Senator Coleman, Representative Fox, Senator Kissel, Representative Rebimbas, and members of the Judiciary Committee, thank you for the opportunity to submit written testimony, on behalf of the Judicial Branch, regarding **H.B. 6692, *An Act Concerning Participation in a Program of Community Service for Persons Seeking Fee Waivers in Certain Civil Actions***. We support the concept of addressing the issue of serial litigants who bring multiple, frivolous court actions at the expense of the state; however, we do not support the solution that this bill proposes.

During the 2012 legislative session, the Judicial Branch submitted a bill that proposed an alternative method to address this very same issue. Section 3 of **S.B. 423, *AAC Court Fees Paid by the State and Service of Process Requirements in Civil Actions Commenced Against the State by Persons who are Incarcerated***, would have given judges more discretion in determining whether court fees and costs should be paid by the state. It would have put in place a process similar to that in federal court by requiring that whenever an application for a waiver of fees and costs is filed, in addition to determining that the person bringing the action is indigent, the judge would also have to make a determination that the proposed action is not frivolous. This determination would be subject to review, as provided by current law. Under existing law, any person whose application for a fee waiver is denied can request a hearing on the denial, and would have an opportunity at that hearing to present evidence that their claim is not frivolous.

It is important to note that this provision would not infringe on an indigent person's access to the courts, as it would not bar fee waivers for colorable claims. It is also important to

note that under current law there is no financial disincentive for a person to bring a frivolous lawsuit, if court fees and costs are waived. We have seen the impact of this in our courts.

Turning to the bill before you, on a practical note, the Branch does not believe that the new community service system it seeks to establish could be handled within existing resources, as it would require considerable court and staff time. Administering this system could very well cost the Judicial Branch, and thus the residents of our state, more than is waived in fees and costs.

In conclusion, we respectfully request that the Committee not act favorably on this proposal, but that you consider instead adopting the language the Judicial Branch proposed in 2012, as follows:

Subsection (a) of section 52-259b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) In any civil or criminal matter, if the court finds that a party is indigent and unable to pay a fee or fees payable to the court or to pay the cost of service of process and that the matter is not frivolous, the court shall waive such fee or fees and the cost of service of process shall be paid by the state.

Thank you for your consideration.