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**Testimony of Garvin G. Ambrose, Esq., State Victim Advocate
Submitted to the Judiciary Committee
Monday, April 15, 2013**

Good day Senator Coleman, Representative Fox and distinguished members of the Judiciary Committee. For the record, my name is Garvin Ambrose and I am the Victim Advocate for the State of Connecticut. Thank you for the opportunity to provide testimony concerning:

Raised Senate Bill No. 1165, An Act Concerning Diversionary Programs.

The Office of the Victim Advocate (OVA) strongly OPPOSES Raised Senate Bill 1165 as the proposal significantly expands the availability and eligibility of many of the current diversionary programs within the criminal justice system.

While the OVA recognizes the value of diversionary programs, the OVA is deeply concerned that the exploitative use of diversionary programs defeat their intended purpose of deterring future criminal conduct while reforming behavior. The availability of diversionary programs should be strictly limited to "first-time offenders" and for offenders with mental health issues, substance abuse issues or other behavioral issues, coupled with the offender's willingness to change the problematic behavior.

In 2009, The National Association of Pretrial Services Agencies (NAPSA) released "*Pretrial Diversion in the 21st Century; A National Survey of Pretrial Diversion Programs and Practices*" with Connecticut as a participant¹. NAPSA Diversion Standard 9.1² encourages well articulated mission statements for pretrial diversion programs. Mission statements keep persons within and outside the organization aware of institutional values, objectives, and responsibilities geared to helping the organization accomplish its mission. Although the Judicial Branch has adopted a mission statement for the Branch, "To serve the interests of justice and the public by resolving matters brought before it in a fair, timely, efficient and open manner," the Branch has not offered a mission statement specific to its Diversionary Programs, as recommended by NAPSA. Interestingly, however, a review of the mission statements adopted by other states reinforces the concept that diversion be an opportunity and limited. For example:

- The mission of the Merrimack County Diversion Center is to hold eligible defendants accountable while providing resources, skills and education to prevent them from

¹ <http://www.napsa.org/publications/napsapretrialpracticesurvey.pdf>

² http://www.napsa.org/publications/diversion_intervention_standards_2008.pdf

committing new crimes. The program is an alternative to prosecution that offers participants an opportunity to avoid a criminal conviction and other punitive sanctions including fines, probation and incarceration. (New Hampshire)

- The St. Croix County Pretrial Diversion Program provides a positive alternative to the criminal court process for motivated first time offenders. The program is designed to meet the needs of these offenders in an attempt to deter any future criminal behavior. The offenders receive coordinated assistance appropriate to their needs and the conditions of the Diversion Agreement. (Wisconsin)

Although diversion should be limited to “first-time offenders”, the diversion programs in CT are geared toward the crime rather than first time offender status. For instance, a person can utilize the drug education program to resolve a drug possession case and then later use the accelerated rehabilitation program to resolve another criminal case that does not involve a crime of a serious nature. In cases of domestic violence, an individual may have their criminal matter diverted to the family violence intervention unit and receive an “informal” diversion; including counseling, anger management or other services while preserving the formal diversion to the Family Violence Education Program should a subsequent arrest for domestic violence occur. Diversion programs in CT have become a routine method of resolving criminal cases rather than offering opportunities to first time offenders and addressing the root cause of the behavior.

Raised Senate Bill No. 1165 seeks to further exploit the use of diversion programs by expanding the availability and eligibility of such diversion programs. It is illogical that a person would be able to apply for diversion, multiple times or through multiple diversion programs, while receiving the benefit of a dismissal.

In addition, Sections 1 & 2 of Raised Senate Bill No. 1165 proposes to relieve a person, determined indigent and eligible for representation by a public defender, from payment of any application fees, programs fees, fees associated with substance abuse examination and administrative fees. Further, any person sentenced to a period of probation would be relieved from payment of the probation and program fees. While there are many people that simply are unable to incur the cost of such fees and programs, currently the court has the ability to waive those fees if the court finds the person is unable to pay. There should not be a blanket waiver simply due to a person’s eligibility for the services of a public defender. Additionally, Section 2, as proposed, would not allow the court to require a person to perform community service as a condition of waiving fees. Diversion Programs, including the cost, whether it be monetary or community service, should be designed to hold a person accountable, while providing an opportunity for the person to right the wrong through programs and services. Certainly, alleviating the person from all accountability, including the offer of multiple diversion opportunities, stands in stark contrast to the purpose of diversionary programs.

Finally, diversionary programs are only as good as their measured outcomes. NAPSA Diversion Standards (9.9) encourages the routine monitoring and evaluating of the programs and its participants. A routine evaluation of diversionary programs can assist in the development of best practices to achieve the programs ultimate goals. Participant success statistics will measure a program’s success and ultimately identify areas where the program may be ineffective. Collecting data to monitor the recidivism statistics for program participants can also assist in the improvement of programs. While

not every person placed in a diversionary program will be successful, the factors for a person's unsuccessful attempt may assist in the future success of other participants.

I strongly urge the Committee to REJECT Raised Senate Bill No. 1165.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Garvin G. Ambrose", written over a horizontal line.

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