State of Connecticut

DIVISION OF PUBLIC DEFENDER SERVICES

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Testimony of
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Raised Bill No. 969
AN ACT CONCERNING FEES CHARGED FOR CRIMINAL HISTORY RECORDS CHECKS.

Public Safety Public Hearing
February 28, 2013

The Office of Chief Public Defender has concerns in regard to ***Raised Bill No. 969, An Act Concerning Fees Charged for Criminal History Records Checks***. The Division provides legal representation to indigent accused persons. As such, the attorneys in its offices routinely request copies of criminal history records in order to provide effective assistance of counsel to its more than 100,000 clients. [1] If passed, this bill could substantially impact upon the financial resources of the Division of Public Defender Services. As a result, additional resources in the amount of at least $280,800 would need to be appropriated to the Public Defender Division, a state agency, so that it could pay the Commissioner of Emergency Services and Public Protection, another state agency.

Currently, C.G.S. §29-11, provides that the Commissioner shall charge $50 to search and provide a copy of criminal history record information. However, subsection (c) of C.G.S. §29-11 then exempts from having to pay this fee, federal, state or municipal agencies. As a result, the Division of Public Defender Services has not been required to pay $50 for each criminal history record it has requested. Based upon a survey taken of its offices, the Office of Chief Public Defender asserts that an average of 108 requests for criminal history record information are currently made on a weekly basis by Division employees which multiplied would be the equivalent of 5,616 requests per year.

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[1] During the 2011/12 Fiscal Year total public defender caseload increased to 100,370 cases. This 8% increase over the 92,587 cases assigned during the 2010/11 Fiscal Year was largely due to the inclusion of 9,750 Child Protection cases. An additional 575 cases were appointed to the appellate and habeas corpus units during the 2011/12 Fiscal Year totaling 100,945 cases for the Division of Public Defender Services. *See 2012 Annual Report of Chief Public Defender.*

As an alternative to appropriating more financial resources to this agency, this office suggests that language **(Proposed language from Public Defenders is capitalized, bolded and underlined)** be added to Sections 1 and 2. The language is identical to that contained in subsection (d) of C.G.S. §1-212 in regard to Freedom of Information requests. Specifically language should be added to subsection (c) of Section 1 which would amend C.G.S. §29-11 and provide as follows:

Line
47 amended by this act. Except as provided in subsection (b) of this section, the
48 provisions of this subsection shall not apply to any federal, state or municipal agency if the
49 individual identified in the request is seeking employment with the requesting agency "**OR**
50 **IF THE PERSON REQUESTING THE RECORDS IS A MEMBER OF THE DIVISION OF**
51 **PUBLIC DEFENDER SERVICES OR AN ATTORNEY APPOINTED BY THE COURT AS**
52 **A DIVISION OF PUBLIC DEFENDER SERVICES ASSIGNED COUNSEL UNDER**
53 **SECTION 51-296 AND SUCH MEMBER OR ATTORNEY CERTIFIES THAT THE**
54 **RECORD PERTAINS TO THE MEMBER'S OR ATTORNEY'S DUTIES."**

To be consistent, this same language would need to be added to Section 2 in line 90 at the end of subdivision (A) of (b)(2) of the bill exempting out Division employees from having to pay for this crucial information as follows:

Line
89 For a state agency requesting (a) a state criminal history records
90 check of a person to be employed by such agency **OR IF THE PERSON REQUESTING THE RECORDS IS A MEMBER OF THE DIVISION OF PUBLIC DEFENDER SERVICES OR AN ATTORNEY APPOINTED BY THE COURT AS A DIVISION OF PUBLIC DEFENDER SERVICES ASSIGNED COUNSEL UNDER SECTION 51-296 AND SUCH MEMBER OR ATTORNEY CERTIFIES THAT THE RECORD PERTAINS TO THE MEMBER'S OR ATTORNEY'S DUTIES,** no fee, (B) a state

In conclusion, the Office of Chief Public Defender requests either additional resources or in the alternative an exemption from payment of these new fees. Thank you for your consideration.