



**Connecticut
Sentencing
Commission**

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TESTIMONY IN SUPPORT OF HB 6511

AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION REGARDING THE ENHANCED PENALTY FOR THE SALE OR POSSESSION OF DRUGS NEAR SCHOOLS, DAY CARE CENTERS AND PUBLIC HOUSING PROJECTS.

By Dr. Robert Painter, M.D.

Member: Drug-Free Zone Working Group of the Sentencing Commission

Good morning Senator Coleman, Representative Fox, Senator Kissel, Representative Rebimbas and members of the Judiciary Committee.

Thank you for the opportunity to present the Sentencing Commission's recommendations regarding Connecticut's drug-free zone statutes.

In a letter dated June 26, 2012, the Judiciary Co-Chairs' requested the Commission explore "the effectiveness of these laws and how they are applied." Subsequently a working group of the Legislative Committee was formed for the aforementioned purposes. Members included: Myself, Legal Counsel/Executive Assistant Public Defender Deborah Del Prete Sullivan, Deputy Chief State's Attorney Len Boyle, and Legislative Committee members: Alex Tsarkov and LaResse Harvey.

The working group was assisted by Andrew Clark, Sentencing Commission Acting Executive Director; Louise Nadeau, legislative attorney from the Legislative Commissioners' Office; Chris Reinhart, Chief Attorney from the Office of Legislative Research; James Orlando, Associate Analyst from the Office of Legislative Research; and Jason DePatie, policy specialist at the Institute for Municipal and Regional Policy.

First passed by the CT General Assembly in 1987, this legislation initially created a safe zone of 1000 feet around elementary and secondary schools. The distance was increased by further legislation to what it is now: 1500 feet. Committing drug offenses, including simple possession of drugs or drug paraphernalia, within this zone made the offender eligible for a two year enhanced penalty to be served sequentially.

Because the legislation created the same 1500 feet drug-free zone around licensed child day care centers and public housing properties, overlapping drug-free zones blanketed urban centers. Nearly 100% of larger cities became drug free school zones. New Haven does have one significant area that is not a drug-free zone – a golf course. By contrast, Durham has only four distinct drug-free school zones in the entire town. The concept driving the legislation has been lost—that of a special, differentiated sanctuary of

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safety around the school. Since urban areas are disproportionately poor and minority communities, a marked racial disparity results in those at risk for these penalties.

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The Judiciary Committee has previously, as now, looked at affirming this special status - raising the area around the school to the status of a safe sanctuary - just as many states have done. Distances used by other states have varied markedly. Vermont, declares only school grounds, property adjoining the school grounds, and buses as drug-free zones. Alabama has established 15,840 feet as the proper distance. Most states and researchers looking at this issue in depth have felt that a lesser distance such as 200 feet measured from the perimeter of the school more effectively creates the intended sanctuary effect. Such was the recommendation of the Commission's working group, which was affirmed by consensus by the Sentencing Commission at its December 20, 2012 meeting. As such,

The Sentencing Commission recommends that the zone be measured from the periphery of the properties described in the legislation and that the zone should extend 200 feet from the periphery of the property.

Although it has been generally accepted that persons driving through school zones and subject to drug arrests because of possession or use of illegal substances are not also subject to the enhanced penalties of this law, there has not been clarity with regard to this issue. In order to establish such clarity:

The Sentencing Commission recommends that State v. Lewis be codified to make clear that 'intent to violate' is considered and that proof is offered that the offense occurred in a school zone. Those merely driving through the area with illegal substances would not be subject to the enhanced penalty.