

CCDLA
"Ready in the Defense of Liberty"
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March 31, 2014

The Honorable Eric D. Coleman
The Honorable Gerald M. Fox.
Chairmen
Joint Committee on Judiciary
Room 2500, Legislative Office Building
Hartford, CT 06106

Re: Raised Bill 5594, An Act Concerning Diversionary Programs

CCDLA is a not-for-profit organization of more than three hundred lawyers who are dedicated to defending persons accused of criminal offenses. Founded in 1988, CCDLA is the only statewide criminal defense lawyers' organization in Connecticut. An affiliate of the National Association of Criminal Defense Lawyers, CCDLA works to improve the criminal justice system by insuring that the individual rights guaranteed by the Connecticut and United States constitutions are applied fairly and equally and that those rights are not diminished.

CCDLA support Raised Bill 5594, An Act Concerning Diversionary Programs. CCDLA supports the proposed changes in Raised Bill 5594 that would increase access to existing court programs for indigent applicants through the waiver of applicable fees, would permit offenders a second opportunity to access certain of our court programs, and would seal the court file in these cases for the benefit of an accused and to protect their status prior to the dismissal of his or her case.

Raised Bill 5594 clarifies the statutorily-mandated program fees for certain of our diversionary programs and would dictate that these fees be waived for indigent persons who are eligible for public defender services or who are being represented by a public defender. Often, in the event of a fee-waiver, Courts will impose a requirement of community service in lieu of the applicable fee. However, such a requirement delays the applicants entry into the program, delays the ultimate disposal of the case, and delays the applicant's access to the important treatments and services offered by the program. Raised Bill 5594 would avoid that impediment and make more certain equal access to court programs by applicants at all income levels.

Further, Raised Bill 5594 provides that the Court will seal the Clerk's file from public scrutiny when an applicant is placed in certain diversionary programs. Although some court diversionary programs already have a provision to seal contents of a court file, for example, the

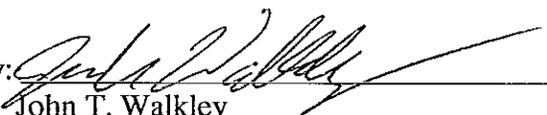
Alcohol Education Program, the Pretrial Drug Education Program, the School Violence Prevention Program, the Alcohol/Drug Dependency Program, and the Pretrial Supervised Diversionary Program for persons with Psychiatric Disabilities. Raised Bill 5594 proposes to extend the sealing provision to other court diversionary programs: at Section 2, the Community Service Labor Program; at Section 3, the Pretrial Accelerated Rehabilitation Program; at Section 7, the Pretrial Family Violence Education Program; and at Section 9, Order for Suspension of Prosecution and Treatment for Alcohol or Drug Dependency. By adding this provision for sealing, Raised Bill 5594 would bring in line these programs with other court-sponsored diversionary program statutes and would take great strides to protect confidential records from public disclosure.

Finally, Raised Bill 5594 would provide that two of the existing court diversionary programs, Pretrial Accelerated Rehabilitation and the School Violence Prevention Program, would provide, in the discretion of the Court, for the placement a second time in those programs,. This benefit, or consideration by the Court of this benefit, would occur if ten or more years had passed since the date that any charge or charges for which the program was granted had been dismissed by the court, or, in the case of the School Violence Program, if 2 or more years had passed. These changes are essential for Connecticut citizens who may have found themselves before the Court as young adults and utilized one of these important programs at that time, most importantly the Accelerated Rehabilitation program (AR). Those same minor offenders occasionally find themselves back in court years, sometimes decades, later, charged with some new minor offense, and facing the prospect of a criminal record due to that one prior indiscretion years earlier. This new offense could result in a criminal conviction and the loss of employment or other benefit. This is a problem in need of correction. And, as Raised Bill 5594 provides, the granting of this relief remains in the discretion of the Court.

CCDLA urges this Committee to vote favorably on Raised Bill 5594. If further clarification of our position on this Bill, I am happy to answer any questions that members of this Committee may have.

Respectfully submitted,

CCDLA

By: 
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CCDLA President