



State of Connecticut
DIVISION OF CRIMINAL JUSTICE

TESTIMONY OF THE DIVISION OF CRIMINAL JUSTICE

IN SUPPORT OF:

H.B. NO. 5507: AN ACT CONCERNING THE APPOINTMENT OF ZONING ENFORCEMENT OFFICIALS, BUILDING OFFICIALS AND FIRE MARSHALS

JOINT COMMITTEE ON PLANNING AND DEVELOPMENT
March 14, 2014

The Division of Criminal Justice respectfully recommends the Committee's JOINT FAVORABLE SUBSTITUTE REPORT for H.B. No. 5507, An Act Concerning the Appointment of Zoning Enforcement Officials, Building Officials and Fire Marshals.

Specifically, the Division would recommend striking that part of Section 3 (a) of the bill eliminating the provision which prevents removal of a local fire marshal or deputy fire marshal from his or her position unless "for cause"; which language acts as a necessary insulation of our fire safety enforcement officials from removal from office for performing mandated enforcement of fire laws that may be unpopular with the local administration.

We further respectfully recommend the addition of language to codify a 1967 standing U.S. Supreme Court decision that fire, health, building, housing, zoning and other enforcement officials have a right to apply to a judge of the Superior Court for an administrative search warrant in order to perform inspections necessary by law to ensure public safety, health and well-being where consent to access private property is denied or otherwise unavailable at law. See, *Camara v. Municipal Court*, 387 U.S. 523, 539 (1967); see also, *Bozrah v. Chmurynski*, 303 Conn. 676, 691 (2012).

This legislature has long recognized that public officials must be able to conduct inspections at appropriate times if they are to ensure the health and safety of our citizens. Our statutes contain a myriad of laws that allow and in fact require officials, both state and local, to conduct inspections to review complaints and order necessary changes or repairs to minimize identifiable risks to persons or property. See, e.g., Section 29-305 (mandating state and local fire marshals conduct both periodic and complaint based inspections in the interest of public safety); Section 29-393 (mandating local building officials conduct inspections in the interest of public safety when information is received from the fire marshal or an authentic source that a hazardous condition exists); Section 19a-206 (mandating local public health to enter all places within the department's jurisdiction when there is cause to suspect any nuisance or source of filth exists). Similarly, our Connecticut Supreme Court has recognized that inspections for zoning violations help further a municipality's legitimate interest in promoting health and the general welfare and in protecting property values. See, *Bozrah v. Chmurynski*, *supra* at 691.

Most of the time, our state and local code enforcement officials do an excellent job at gaining cooperation from the public and as such are able to conduct these inspections with the voluntary consent of the party whose property is being inspected. What this bill would do is statutorily allow our state and municipal officials to apply to the court for an administrative search warrant to conduct some of these searches when the person refuses to consent or consent is unavailable.

In supporting this bill, the Division of Criminal Justice notes that the scope of an administrative search warrant is distinctly different from that of a criminal search warrant. Unlike a criminal search warrant, the administrative search warrant would not authorize officials to seize evidence or even search for suspected criminal activity; it would only allow the court authorized officials to enter to inspect for violations of standing codes or statutes that require inspection for known or reasonably believed violations, often dangerous or potentially life threatening in nature. Administrative search warrants are aimed at prevention of injuries to persons and property, not at a criminal arrest. In all circumstances, where violations are found upon entry, the person legally obligated to correct is served a written notice or order from the enforcement official giving a fair opportunity to remediate before facing any consequence under any of the existing safety codes. If the work is done timely to the order, or under a granted extension, the matter will not require further action. If it is not, and has not been appealed at law, the order would be enforceable in court.

The passage of a statute authorizing public officials entrusted with enforcing our health, building, fire, housing and zoning codes and ordinances to obtain administrative search warrants will significantly aid in advancing the interests of public safety. The Division of Criminal Justice will provide proposed language for the administrative search warrant proposal, and we stand prepared to work with the legislature and other interested parties to ensure that a statute is passed that will truly benefit public safety.

Thank you.