State of Connecticut

DIVISION OF PUBLIC DEFENDER SERVICES

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Testimony of
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Judiciary Committee Public Hearing- April 1, 2015

Raised Bill 7049
An Act Concerning Pre Trial Diversionary Programs

While not in opposition to the bill in its entirety, the Office of Chief Public Defender is concerned with **Section 1** of the bill which would exclude from being eligible for Accelerated Rehabilitation (AR) a health care provider or vendor participating in the Medicaid program who is charged with Larceny in the First or Second Degree, under the "defrauding a public community subsection. The bill would create a new subsection (9) in C.G.S. §54-56e, Accelerated Rehabilitation. The concern arises due to what appears to be a growing effort to exclude from AR eligibility more offenses under the statutes, despite the fact that the persons so charged are first time offenders.

While some may argue that the legislative intent underlying the "defrauding a public community" provision was meant to address only those situations where a health care provider or insurance vendor falsified claims, this is not the reality in Connecticut prosecutions. People are charged with "defrauding a public community" despite objection by the defense that this provision was never intended to apply to a person who merely received benefits from state funded agencies that they were not entitled to, typically because he/she failed to update the required redetermination forms.

The Office of Chief Public Defender does support the proposed change contained in **Section 4** of the bill regarding eligibility for the (psychiatric) supervised diversionary program for a family violence crime. This amendment would acknowledge that many family violence cases are precipitated by mental health issues that have gone unaddressed. Procedurally, there has been some confusion with probation regarding eligibility requirements for certain programs, in particular, the (psychiatric) diversion program. This section of the bill should alleviate some of the confusion.

There are instances when probation has returned unfavorable eligibility recommendations because of their interpretation of the way the current statutes are written. This situation has often left defendants with a mental health diagnosis, who are otherwise diversion eligible, the choice of either the family violence education program or no program at all. Ironically, persons who are ineligible for the Family violence Education Program because of prior use, are then sometimes found eligible for the diversionary program.