

CCDLA

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"Ready in the Defense of Liberty"
Founded in 1988

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Judiciary Committee
Legislative Office Building
Hartford, Connecticut 06106

Re: Raised Bill 5366

Raised Bill No. 5366 proposes a significant change to section 51-195 of Connecticut General Statutes which provides for the review of certain sentences in criminal actions. The proposed change will exempt from the consideration of the review division any sentence where the plea agreement "provides that the term of imprisonment will not exceed an agreed upon maximum term, but provide that the person sentenced may request a term of imprisonment lower than the agreed upon maximum term." This is commonly referred to as the "right to argue".

The purpose of sentence review is to ensure Superior Court judges, who have discretion in the sentence they impose, are exercising this discretion appropriately. Plea agreements containing a right to argue often afford judges a great deal of latitude in sentencing. This latitude often includes a number of years. It is not uncommon for a judge to have the option to impose a completely suspended sentence or multiple years of incarceration. The right to argue is a tool used very often in many serious felony cases. The right to have such sentences reviewed is important to our criminal system; it is also the judicial discretion the legislator originally intended to monitor. As noted by our Supreme Court recently "Any reservation of the right to argue for a lesser sentence affords the court the very discretion that the statute intended to monitor."

Additionally, the proposed legislation will serve to limit the number of people who can have their cases reviewed significantly. This is contrary to our system of checks and balances. Our system works better when the people of this state can have faith that our criminal justice system will be fair, and that the exercise of judicial discretion will be monitored. Allowing for review of a sentence is essential to our notions of fundamental fairness. It provides those sentenced by a judge exercising discretion in the imposition of a sentence of a period of incarceration of three years or more, with an opportunity to have their sentence reviewed if they act within thirty days. There is no harm in allowing those sentenced to such lengthy terms of imprisonment, the opportunity to know that their

sentence has been reviewed by other judges. This will only increase confidence and faith in our system. By contrast, removing this opportunity for review will have the opposite effect.

Finally, it is unclear how this proposed change will improve our current system. It certainly does not do anything to improve the protections provided to those accused of crimes. It is also difficult to see how this will improve our system at all or what perceived problem this change in the law seeks to fix.

The proposed legislation is unnecessary and potentially harmful to our criminal justice system. For these reasons, the Connecticut Criminal Defense Lawyers Association is opposed to this proposed legislation.