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Testimony of Attorney Nadine Nevins, Connecticut Legal Services, in Support of SB 314 and Additional Amended Language to Change Penalties for UC Overpayments from a Felony to a Misdemeanor, March 3, 2016

My name is Nadine Nevins. I am the managing attorney of the Bridgeport office of Connecticut Legal Services, Inc. I am submitting this testimony on behalf of the state's legal services programs. I support the concepts of SB 314, An Act Concerning the Temporary Family Assistance Program and Unemployment Compensation Benefits, and would like to direct your attention to the comments submitted by Attorney Joanne Gibau of New Haven Legal Assistance Association in support of SB 314, for an analysis of this bill.

Additionally, I am proposing that SB 314 be amended with substitute language that changes CGS § 31-273 and makes unemployment compensation overpayments of \$1300 or less a misdemeanor rather than a felony.

This change is consistent with the "Second Chance Society" laws passed by you, the legislature, last year. That initiative was aimed at "turning nonviolent offenders into productive members of our society who can contribute to our economy, rather than drain it."

For workers collecting unemployment compensation who finally find a new job, it could be as long as a month before they actually get their first paycheck. Many employers pay bi-weekly and some withhold the first paycheck. During that time the worker is without income. The unemployment compensation checks may seem like a logical way to bridge that income gap until their first paycheck comes through.

This proposal is not decriminalizing the overpayment nor saying that the overpayment does not have to be paid back; it is just raising the dollar amount at which an overpayment becomes a felony from



\$500 to \$1300. This change puts unemployment compensation overpayments in line with other penalties for felonies in Connecticut. Generally, individuals in Connecticut are not charged with a felony unless the value of the property exceeds \$2000.

The maximum weekly unemployment compensation benefit rate in Connecticut is currently \$598.00 per week. \$500 can be the equivalent of less than one week's unemployment compensation check. Having a felony on one's record for receiving one week too many of unemployment compensation is a bit disproportionate.

Last year the legislature reduced the penalty for possession of drugs from a felony with a seven-year maximum sentence to a misdemeanor with a maximum of one year in jail, no mandatory jail sentence because that was disproportionate.

I urge you to remedy the situation for those with unemployment compensation overpayments so that they will not be stigmatized with having a felony conviction for overpayments of \$1300 or less - allowing them to remain employed workers who can support their families and contribute to Connecticut's economic growth.

Substitute Language for SB 314, Changing CGS § 31-273. Overpayments; recovery and penalties. False or misleading declarations, statements or representations. Additional violations and penalties. (copied below as well as attached on separate page):

Section 3 (NEW) Any person who knowingly makes a false statement or representation or fails to disclose a material fact in order to obtain, increase, prevent or decrease any benefit, contribution or other payment under this chapter, or under any similar law of another state or of the United States in regard to which this state acted as agent pursuant to an agreement authorized by section 31-225, whether to be made to or by himself or any other person, and who receives any such benefit, pays any such contribution or alters any such payment to his advantage by such fraudulent means (1) shall be guilty of a class A misdemeanor if such benefit, contribution or payment amounts to [five hundred] one thousand three hundred dollars or less or (2) shall be guilty of a class D felony if such benefit, contribution or payment amounts to more than [five hundred] one thousand three hundred dollars. Notwithstanding the provisions of section 54-193, no person shall be prosecuted for a violation of the provisions of this subsection committed on or after October 1, 1977, except within five years next after such violation has been committed.

FACTS about

Changes to Penalties for Unemployment Compensation Overpayments

CT's unemployment compensation (UC) system is a lifeline for those workers who are unemployed through no fault of their own. For low-wage workers who are often living paycheck to paycheck and have no savings or assets, UC is often their only resource for supporting their family if they lose their job. This is despite the fact that on average, UC recipients only receive 28.9% of what their average weekly wage would be.

For workers who finally find a new job, it may be a couple of weeks before they actually get a paycheck. During that period they are without any income. The UC checks may seem like a logical way to bridge that income gap until their first pay check comes through.

Unfortunately, those who continue their UC checks while waiting to be paid can be charged with a felony for fraudulently accepting an overpayment.

The clients we see are working in low wage jobs and can be charged with a felony instead of a misdemeanor even though they are only receiving as little as \$500 in an overpayment. This proposal would raise the threshold for being charged with a felony vs. a misdemeanor from \$500 to \$1300.

This change puts UC overpayments in line with other penalties for felonies in CT. Generally individuals in CT aren't charged with a felony unless the value of the property in question is over \$2000.

Support for this proposal will mean that more individuals will remain employed and be successful in supporting their families without being penalized for making an uninformed decision and labeled as a felon.

Substitute Language for SB 314, Changing CGS § 31-273. Overpayments; recovery and penalties. False or misleading declarations, statements or representations. Additional violations and penalties.

...

Section 3 (NEW) Any person who knowingly makes a false statement or representation or fails to disclose a material fact in order to obtain, increase, prevent or decrease any benefit, contribution or other payment under this chapter, or under any similar law of another state or of the United States in regard to which this state acted as agent pursuant to an agreement authorized by section 31-225, whether to be made to or by himself or any other person, and who receives any such benefit, pays any such contribution or alters any such payment to his advantage by such fraudulent means (1) shall be guilty of a class A misdemeanor if such benefit, contribution or payment amounts to [five hundred] one thousand three hundred dollars or less or (2) shall be guilty of a class D felony if such benefit, contribution or payment amounts to more than [five hundred] one thousand three hundred dollars. Notwithstanding the provisions of section 54-193, no person shall be prosecuted for a violation of the provisions of this subsection committed on or after October 1, 1977, except within five years next after such violation has been committed.