State of Connecticut

DIVISION OF PUBLIC DEFENDER SERVICES

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Testimony of
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Office of Chief Public Defender
Raised Bill No. 324
An Act Concerning a Temporary Holding Period for Certain Family Violence Arrestees
Judiciary Public Hearing – March 7, 2016

The Office of Chief Public Defender is opposed to ***Raised Bill No. 324, An Act Concerning A Temporary Holding Period for Certain Family Violence Arrestees.*** This bill is almost identical to *Committee Bill 651, An Act Concerning a Temporary Hold for Certain Family Violence Arrestees* which was proposed during the 2015 Legislative Session and also proposed a 12 hour temporary hold. This current proposal provides for an 8 hour temporary hold. As drafted this bill would violate a person's right to bail, due process and equal protection under the state and federal constitutions. The bill requires police to hold any person arrested and accused of a family violence crime, ***without bail*** for 8 hours, based upon a police officer's discretion after his/her consideration of certain factors listed in the bill. However, constitutional safeguards require that an adversarial hearing be held at which the defendant is represented by counsel. Only after such a hearing and a court order entered should a defendant be held.

The bill would permit even persons charged with non-violent misdemeanors, including a breach of peace in a family violence situation, to be held for 8 hours without bail. In Connecticut a defendant has a constitutional right to bail pending a trial in all but certain capital offenses. Persons charged with a crime are presumed innocent until proven guilty. The state has the burden of proving a person guilty beyond a reasonable doubt. However, pursuant to this bill, a person's alleged conduct or his prior conduct, whether proven beyond a reasonable doubt or not, will require that he/she be held without bail. This bill will result in the unequal application of bail as it will permit bail for persons charged with more serious offenses, so long as they are not family violence matters.

While understanding the public safety intent of this bill, this bill goes too far and is contrary to the constitutional protections as guaranteed to all. Therefore, the Office of Chief Public Defender requests the Committee to take no action on this bill.