



State of Connecticut
DIVISION OF CRIMINAL JUSTICE

TESTIMONY OF THE DIVISION OF CRIMINAL JUSTICE

**S.B. No. 454 (RAISED) AN ACT CONCERNING AUTOMATIC ERASURE OF
CRIMINAL RECORDS**

S.B. No. 455 (RAISED) AN ACT CONCERNING WEAPONS IN VEHICLES

H.B. No. 5476 (RAISED) AN ACT EXPANDING THE USE OF DRUG DOCKETS

JOINT COMMITTEE ON JUDICIARY
March 18, 2016

The Division of Criminal Justice submits the following testimony with regard to bills on the agenda for the public hearing of March 18, 2016:

The Division of Criminal Justice opposes **S.B. No. 454, An Act Concerning Automatic Erasure of Criminal Records**, and would respectfully recommend the Committee take **NO ACTION** on this bill. This proposal is not only unnecessary, but as now drafted is confusing and internally inconsistent. There is no need to change the statute to make erasure "automatic." Simply saying something is erased upon the occurrence of a particular event is sufficient and adding the word "automatically" won't make it happen any faster, more effectively, or with more certainty.

It is also unclear how making erasure automatic upon a dismissal would affect the ability of the state to appeal from a dismissal. If the records are erased the state would not be able to exercise its lawful right to take an appeal. Sections (a)(1) and (a)(3) of the bill are in conflict because both are "applicable" when there is a dismissal and (1) mandates erasure immediately upon the dismissal, while (3) mandates erasure only upon the final determination of an appeal of a dismissal. This ambiguity will almost surely result in litigation, and as now written only stands to impact the state since the defendant would not be the one to appeal a dismissal.

The confusion and ambiguity does not end there. Who is an "accused"? Even if one were to assume that this means a person who has been arrested, even that is not clear. No one is arrested and then "released without being charged." Everyone who is arrested is charged. For the same reasons, no one is "released without being charged due to a wrongful arrest[.]" No charge is simply "dropped" prior to arraignment as if that charge never existed. Once made, a charge is either nolle, dismissed or pursued to ultimate finality. If there are, indeed, instances where charges are being "dropped" before the state's attorney and/or judicial authority even get

involved something is seriously awry. And, if this is happening, how will these "dropped" dispositions, which presumably would be ad hoc and informal, be identified for record keeping purposes? If an accused actually could be released "without being charged," then there would be no records "pertaining to such charge" to make subject to erasure, so that provision makes no sense. Finally, the bill in no way defines what exactly constitutes a "wrongful" arrest nor does it explain why it is first described as "due to mistaken identity or other reason." If any reason would suffice, there is no need to include mistaken identity, which also is not defined.

In conclusion, the bill is unnecessary and confusing to the point where it would create more problems while solving no identified problem. The Division respectfully recommends NO ACTION on S.B. No. 454.

The Division of Criminal Justice respectfully recommends the Committee's JOINT FAVORABLE SUBSTITUTE for S.B. No. 455, **An Act Concerning Weapons in Vehicles**. The stated purpose of this bill is to bring the statute in line with *State v. DiCiccio*, 315 Conn. 79 (2104), which held that the possession of a dirk knife and a police baton in the home is protected by the 2nd Amendment to the United States Constitution and that General Statutes Section 29-38, by categorically barring the transportation of those weapons by motor vehicle between residences, impermissibly infringed upon that right. The problem with S.B. No. 455 is that it is identified as "(H)", making it the seventh alternative falling within exception "(5)" – "The provisions of this section shall not apply to: ... (5) any person having a knife, the edged portion of the blade of which is four inches or more in length, in a vehicle if such person..." It needs to be its own separate subdivision – in this case "(6)" and not a component of "(5)," i.e. what is now subsection (b)(5)(H) should be subsection (b)(6). The Division would respectfully recommend the Committee's JOINT FAVORABLE REPORT to correct this apparent drafting error.

The Division of Criminal Justice supports the concept of H.B. No. 5476, **An Act Expanding the Use of Drug Dockets**, but must respectfully recommend the Committee take NO ACTION on this bill in light of the state's current fiscal situation. H.B. No. 5476 would eliminate the current discretion allowed to the Chief Court Administrator and require the Judicial Branch to establish a separate docket at every adult and juvenile court location for defendants defined as drug-dependent. Dedicated dockets are a valuable tool and have proven highly successful in other areas, such as domestic violence matters. However, they require dedicated resources. This applies not only to the Division of Criminal Justice, which provides the prosecutor, but to the Judicial Branch and Division of Public Defender Services. While this bill certainly raises a valid concept, there is serious doubt that it could be implemented at a time when all of the agencies involved are likely facing reductions in resources and staff. For this reason, the Division must respectfully recommend the Committee take NO ACTION on H.B. No. 5476.

The Division wishes to thank the Committee for affording this opportunity to provide input on these bills. We would be happy to provide any additional information the Committee might require or answer any questions you might have.