

# Connecticut General Assembly

## Habeas Corpus Matters Task Force Petition for Certification Subcommittee

Judge William Bright  
Chairperson



c/o Judiciary Committee, Room 2500  
Legislative Office Building  
300 Capitol Avenue  
Hartford, Ct 06106

### Minutes January 29, 2020

Members present: Judge William Bright; Merit Lajoie; Charles Ray; Darcy McGraw; Jennifer Smith; Jennifer Bourn; James Killen; Nicole Anker; Steven Strom

Minutes of the December 18, 2019 were approved.

#### Old Business

Review of discussion at December meeting.

- Focus on process different from current process, taking Habeas Court out of the process for certification to appeal.
- All nine Appellate Court judges for certification to appeal is not supported by the Appellate Court judges- would make more work.
- One of 3 judges to approve certification-fluid on Appellate Court
- Public Defenders have serious concerns about discussed proposals; would have to be a number of rule changes and procedure changes. Feels the process being discussed is a hurried process.
- Appellate Court has huge docket of Habeas Appeals (approx. 25% of docket).
- Many could be disposed summarily.
- Public Defenders are concerned that there are not enough appellate lawyers to do these cases in a more expedited fashion.
- Public Defenders propose that there be a right to appeal in habeas cases and that the Appellate Court decide whether the appeal should be dismissed after reviewing the appellant's brief. If there are no issues that warrant further review at that point, the appellee would be relieved of the requirement to file a brief and the case can be summarily disposed.
- State's attorneys oppose this proposal because they would feel compelled to file a brief in opposition, so the process would not be streamlined.
- Judge Bright also raised concerns about the proposal because the Appellate Court typically prefers to give both parties an opportunity to be heard before issuing rulings.
- It was also noted that it is common in other states and federal court to get permission to appeal from the Habeas Court or the court of appeals.

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The State's Attorneys noted that if you look at other states and the federal government, CT is an outlier regarding how easy it is to appeal the denial of a habeas petition. Jenn Bourn and Darcy McGraw stated that the difference between CT and other states is not as great as many perceive and that they can provide information to the subcommittee on how other states handle habeas appeals. A presentation will be made at the next meeting.

### New Business

Conditions of Confinement cases very different.

- No right to counsel
- Pro se petitioners get notice of appeal; waiver of fees
- Courts occasionally appoint counsel for appeal even though there is no right to counsel
- At least one habeas judge believes Public Defenders should be appointed in condition cases
- Clarify representation in conditions cases
- Brief discussion about the filing of hand-written briefs in confinement cases.