



**Office of Chief Public Defender  
State of Connecticut**

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**Testimony of Susan O. Storey, Chief Public Defender  
Office of Chief Public Defender**

**Bill No. 6826**

**An Act Revising the Requirements for the Governor's Budget Recommendations**

**Appropriations Committee Public Hearing – March 27, 2015**

The Office of Chief Public Defender is opposed to passage of **Bill No. 6826, An Act Revising the Requirements for the Governor's Budget Recommendations** which would amend C.G.S. §4-85, *Quarterly requisitions for allotments; exceptions; modifications. Procedure for reductions to allotment requisitions and allotments in force for legislative and judicial branches.* Passage of this bill would place control of the budget of the Judicial Branch, and therefore the Public Defender Services Commission (PDSC), in the Executive Branch. This bill would revert to a previously disfavored process, amended by the legislature in 2009 and 2010, and place the PDSC budget at risk of unilateral reductions and rescissions by the Executive Branch. Changing the current process would mean that the legislative branch would never see the initial budget request of the PDSC. Or be presented with explanations for any PDSC budget request. Instead the legislative branch would see the PDSC budget after any reductions and rescissions as presented in the Governor's budget. The Office of Chief Public Defender strongly believes that separate and co-existing branches of government exist and not only appear equal, but are equal, in every respect including budget.

The mission of the Division of Public Defender Services is to provide constitutionally required legal representation to indigent persons accused of committing a criminal offense under the state and federal constitutions. The Division of Public Defender Services, a statewide public defender organization, was created in 1974 by the Connecticut legislature and described by Representative

Freedman of the 135<sup>th</sup>, as “landmark legislation for the defense of the indigent.”<sup>1</sup> The legislatively mandated mission of the Public Defender system in regard to criminal proceedings is to provide legal representation to indigent clients accused or convicted of a state crime, who have specifically requested legal representation. See Gen. Stat. §51-289 *et seq.* In addition, C.G.S. §51-296 articulates other types of proceedings in which the court may appoint a public defender, including juvenile delinquency, habeas corpus and extradition proceedings. Effective July 1, 2011, the Connecticut legislature merged the Commission of Child Protection agency into the DPDS, thereby making the DPDS responsible for the providing legal services and guardians ad litem in family relations matters and juvenile matters. See (c)(1) of C.G.S. §51-296 and §51-296a.

As a state agency in the Judicial branch of government, the PDSC is an “autonomous body within the Judicial Department for fiscal and budgetary purposes only”. See subsection (l) of C.G.S. §51-289. (“For purposes of the general statutes, ‘Judicial Branch’ means the Judicial Department”. See subsection (a) of C.G.S. §51-1a.) The Chief Public Defender is charged with preparing and submitting to the PDSC appropriation estimates to insure the continuation of public defender services. The Division of Public Defender Services, a statewide public defender organization, was created in 1974 by the Connecticut legislature and described by Representative Freedman of the 135<sup>th</sup>, as “landmark legislation for the defense of the indigent.”<sup>2</sup> The legislatively mandated mission of the Public Defender system in regard to criminal proceedings is to provide legal representation to indigent clients accused or convicted of a state crime, who have specifically requested legal representation. See Gen. Stat. §51-289 *et seq.*

Although funded by the legislature, the Public Defender Offices do not represent the State of Connecticut but represent individual persons who are its clients, just as private law firms do. The Rules of Professional Conduct, except where expressly noted for circumstances such as retainer agreements and IOLTA account keeping, apply to Public Defenders just as they do to private counsel. “Held to the same standards of competence and integrity as a private lawyer,...a public defender works under canons of professional responsibility that mandate his [or her] exercise of independent judgment on behalf of the client. ‘A lawyer shall not permit a person who recommends, employs, or pays him to render legal services for another to direct or regulate his professional judgment in rendering such legal services.’ DR 5-107(B), ABA Code of Professional Responsibility (1976).” Polk County v. Dodson, 454 U.S. 312, 321 (1981). Regardless of whether a public defender or private attorney, the scope of representation in a criminal prosecution and the decisions reserved to defense counsel are the same. Moreover, “it is the constitutional obligation of the State to respect the professional independence of the public defenders whom it engages....Gideon v. Wainwright, 372 U.S. 335 (1963) ...established the right of state criminal defendants to the ‘guiding

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<sup>1</sup> CT General Assembly Proceedings in the House, **House Bill No 5773, An Act Concerning Public Defender Services Commission**, House Vol. 17 Part 10 at pg. 4840, May 1, 1974.

<sup>2</sup> Connecticut General Assembly Proceedings in the House, **House Bill No 5773, An Act Concerning Public Defender Services Commission**, House Vol. 17 Part 10 at page 4840, May 1, 1974.

hand of counsel at every step in the proceedings against [them].’ Id., at 345, quoting Powell v. Alabama, 287 U.S. 45, 69 (1932).” Polk County v. Dodson, 454 U.S. 312, 321 (1981).

As a result of the foregoing, the Office of Chief Public Defender urges this Committee to reject this bill and maintain the current separation between the three branches of government in regard to the budgetary process. Thank you for your consideration.