



State of Connecticut
DIVISION OF PUBLIC DEFENDER SERVICES

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Testimony of
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Raised Bill No. 6923 - An Act Concerning Sexual Assault

Judiciary Committee Public Hearing - March 4, 2014

While not opposed to *Raised Bill No. 6923, An Act Concerning Sexual Assault*, in its entirety, the Office of Chief Public Defender is concerned with the language as drafted in subsection (2) of Section 1 which would amend C.G.S. §54-86f. The language appears to limit disclosure by defense counsel or his/her agent, of "evidence described in subsection (a)" of Section 1 of the bill or which has been disclosed by the state, to anyone but defense counsel or persons employed by the defense, unless the prosecutor has approved of such. The concern is that the language as drafted appears to prohibit disclosure to the defendant in the case. Without being able to disclose the evidence described in subsection (a) or provided by the prosecutor, defense counsel would face a difficult if not impossible task of providing legal representation which could impact upon a person's right effective assistance of counsel as guaranteed by the Connecticut and federal constitutions.

In addition, the language as drafted could impact upon a person's constitutional right to notice of the charges and evidence against him/her as guaranteed by the state and federal constitutions. A question exists as well as to whether successor counsel on appeal or a habeas would be denied the right to this evidence and/or discovery without the approval of the prosecutor also.

The Office of Chief Public Defender does not believe that the intent of the Committee is to deprive a person charged with a criminal offense of information pertaining to the charges and the evidence to support such or to violate a person's right to effective assistance of counsel. This office proposes that the language should not be so limiting as to preclude access to the defendant or his/her counsel on appeal and/or other post conviction proceedings. This Office is willing to work on language that is acceptable to the Committee.