



State of Connecticut
DIVISION OF PUBLIC DEFENDER SERVICES

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Testimony of
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Judiciary Public Hearing - March 23, 2015
Bill No. 7034

An Act Concerning Costs Incurred
by State Residents When Responding to Certain Discovery Requests

Bill No. 7034, An Act Concerning Costs Incurred by State Residents When Responding to Certain Discovery Requests appears to provide some protection to private state residents for the costs of responding to discovery requests in civil proceedings. While not opposed to Bill 7034 in its entirety, the Office of Chief Public Defender respectfully requests that language be added to clarify that this state agency is exempt from the reimbursement provisions of this bill.

The *Connecticut Innocence Project/Post Conviction Unit* of the Office of Chief Public Defender and Division attorneys represent indigent persons in post-conviction proceedings such as habeas corpus and Petitions for New Trials. Both are civil proceedings. (See *C.G.S. §52-466 et seq.* regarding habeas corpus proceedings and *C.G.S. §52-582, Petition for New Trial.*) Without the requested exemption, this office believes that passage of this bill may result in increased costs to the Public Defender budget, and therefore Connecticut, if required to reimburse for the costs to obtain the subpoenaed information. For example, this office currently represents a number of persons convicted as an adult of an offense committed while a juvenile and who have raised claims pursuant to *Miller v. Alabama*, 132 S. Ct. 2455 (2012) and *Graham v. Florida*, 560 U. S. 48 (2010). It is imperative that counsel for such persons obtain and review all educational, medical and psychological materials that exist in regard to the client's entire life. Without an exemption, this agency, and therefore the state, will bear the cost of reproduction of such materials and litigation surrounding the provision of such.

Another concern is that without the exemption, the workload of the Division will increase as it will be required to spend substantial time to respond and litigate motions to quash or compel

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discovery, and protective orders. The increased workload will impact the court docket and may create a backlog in the resolution of cases.

Therefore, this office proposes that the following language be added at the end of line 51 of the bill. There is already new language proposed in line 51 of the bill which would provide for an exemption for proceedings filed under section §52-190a. The Office of Chief Public Defender would request that the following language also be added:

Line 51 **or section 52-466 et seq or section 52-582.**

Thank you for your consideration.