



***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**

***Raised Bill No. 1022, An Act Establishing a Pilot Program to Provide
Enhanced Community Services to Those in the Criminal Justice System***
Judiciary Committee
March 20, 2017

The Office of Chief Public Defender has concerns about this bill which appears to establish a prosecutorial pilot program that entirely circumvents an arrested person's federal and state constitutional rights to be represented by counsel at critical stages of the proceedings. The bill also calls for a duplication of diversion efforts, evaluations and services that are already provided to defendants through the social workers and attorneys of the public defender offices in each court. The public defender personnel also remain in contact with diverted clients in order to ensure their success in diversion programs. Public Defender social workers also have clinical skills and extensive networking contacts with shelters and mental health providers in order to arrange services in the communities for homeless, addicted and mentally ill clients.

It is concerning that such project would be suggested in light of a very intensive and successful collaboration over the past year with members of the Chief State's Attorneys Office to develop a model early diversion program that includes public defenders and other criminal justice agency stakeholders. The proposed model, CORT, for Collaborative Ongoing Review Team was one of the programs chosen by the MacArthur Foundation for substantial funding in their competitive Safety + Justice Challenge. The pilot program, which is to be situated in New Haven GA#23, was developed with the assistance of the Office of Policy and Management and the Center for Court Innovation in New York. Furthermore, much consultation was had with a similar project, the Early Intervention Program, in Milwaukee WI, which includes the public defenders as an equal participant in the diversion project.

The project proposed by this bill also provides for the court to maintain jurisdiction of the case in order to ensure compliance, which implies that further prosecution may be a consequence if arrestees do not comply with prosecutorial driven diversion. Therefore, these clients, if they so chose, have a right to counsel to explain the potential consequences of non-compliance and other collateral consequences. Contrary to the provisions of this bill, testimony by Chief State's Attorney Kevin Kane and Deputy Chief State's Attorneys John Rusotto and Leonard Boyle at the Judicial and Corrections Subcommittee Budget hearing held March 16, 2017, would indicate that they are contemplating that defense counsel would be involved in these new diversion pilots. They also indicated that budget cuts to their Agency would need to be restored in order to undertake these diversion pilots. The Office of Chief Public Defender would then also need comparable restoration of resources to staff these diversion projects.

During the 1980's similar projects were developed that included the prosecutors and public defenders for "early screening" of their cases, in order that cases that did not deserve prosecution and could be diverted or nolle were dealt with quickly, especially for defendants unable to make bond. Public Defender attorneys and social workers are currently engaged in a collaborative Opioid Dependent Diversion program in the Bridgeport GA#2 court which has proven to be very successful.

The Office of Chief Public Defender strongly supports the creation and use of more diversion opportunities for persons who are mentally ill, homeless, and addicted. However, arrested persons have the constitutional right to have the assistance of counsel when being questioned by the prosecution. This bill does not contemplate a role for defense counsel and therefore, the Office of Chief Public Defender urges no action be taken on this bill in its current form.