

Judiciary Committee JOINT FAVORABLE REPORT

Bill No.: SB-307

Title: AN ACT CONCERNING PROSECUTORIAL ACCOUNTABILITY.

Vote Date: 3/31/2022

Vote Action: Joint Favorable Substitute

PH Date: 3/9/2022

File No.: 519

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SPONSORS OF BILL:

Judiciary Committee

REASONS FOR BILL:

S.B. 307 will establish new reporting, uniform guidelines, and training standards for all prosecutors. This bill will implement investigations to collect case level data to determine how to best serve Connecticut citizens. This bill will break down racial systemic barriers to justice and hold prosecutors accountable for their decisions. By removing prosecutorial discretion from the process of sentencing, implicit biases are also removed, providing more equitable treatment of minority communities.

SUBSTITUTE LANGUAGE:

The substitute language for this bill states that the Office of Governmental Accountability will be responsible for providing administrative support for the Division of Criminal Justice. Starting on July 1, 2023 the commission will evaluate each state attorney on their prosecutorial decisions. Starting July 1, 2023 every training program for prosecutors will include training on racial bias, implicit bias, systemic collateral consequences of arrest, charging and incarceration, available conviction and sentencing alternatives, victim interview techniques, mental illness and trauma, and reentry strategies for offenders released into the community. The substitute language explains training must be one day and held annually. This additional language explains how prosecutors can be expected to change their biases to better serve the state and all the communities within it. The substitute language explains that when an attorney is being considered for reappointment, their performance reports created by the Office of Governmental Accountability can be considered by the Criminal Justice Commission when deciding if the individual is fit for reappointment. This is to prevent any

attorneys from continuing to serve if they are not satisfying the requirements stipulated by this bill.

RESPONSE FROM ADMINISTRATION/AGENCY:

Office of Policy and Management of the State of Connecticut, Marc Pelka, supports the bill but anticipates that it will require several new permanent positions in addition to other resources to implement the legislative requirements. Section 7 requires OPM CJPPD to develop and release performance reports, and the division lacks experience with the data that would need to be analyzed, and they are uncertain if the data is currently available.

State Victim Advocate of the Office of the Victim Advocate, Natasha M. Pierre, Esq., supports section 4 that would implement uniform policies and procedures and identifies specific areas of focus. Crime victims deserve to be treated fairly and have their Constitutional rights upheld equally. OVA oppose section 9 of the bill, which would repeal Section 51-277c of the general statutes that provides for priority to be given to the prosecution of criminal cases involving physical violence and firearms. OVA believes that priority must be given to such cases and failing to do so would compromise public safety.

Commission on Human Rights and Opportunities of the State of Connecticut strongly supports this bill because it has been long clear just how drastic the disparities in outcomes are in the criminal justice system for individuals of color, individuals with mental illness, and individual from low-income communities.

Chief Public Defender of the Office of Chief Public Defender, Christine Perra Rapillo, supports the bill because they support efforts to ensure that the state's criminal justice system is fair, unbiased, and transparent. The process of collecting and analyzing data should be managed and publicized. Clear accessible data will provide the best chance to hold the system accountable for their decisions. They are concerned that prosecutors may feel pressure or constant concern for their jobs, and it is critical to ensure that they are able to make fair and just charging and case-flow decisions without outside influence.

Division of Criminal Justice of the State of Connecticut opposes the bill because it changes attorney's terms from 8 years to 5, and these terms are vital for continuity, division morale, implementation of long-term change in the judicial district, and shortened terms disrupt the roles. The bill imposes a "one size fits all" approach to prosecution that is unwise and unjust. They state that section 7 is unnecessary because it is already codified into statute that every prosecutor appointed by the Commission receive biennial merit and performance reports. Section 8 is not feasible because there would not be any information in the case management system from which to draw data. Section 9 is problematic because if prosecutors cannot prioritize violent crimes, what crimes should be prioritized? They want the Division to continue its ongoing and concerted efforts to address the issues involved.

NATURE AND SOURCES OF SUPPORT:

Licensed Clinical Social Worker from Social Welfare Action Alliance Connecticut Chapter, Rosaline Brown, supports this bill because she believes it will lead to an equitable

and sensible criminal justice system to serve residents. It will help Connecticut develop healthier communities and a unified system across the state.

Community Activist and Educator, Akia S. Callum, supports this bill and states that this bill will help the state move towards the end of mass incarceration and injustice in the criminal justice system that has historically negatively impacted Black and Brown communities.

Co-Founder of Violent Crime Survivors, Michele Voigt, supports the bill's aim to increase criminal justice accountability, and victims' input, experiences, and desired outcomes must be part of that accountability. Violent Crime Survivors does not support section 9 of the bill because it of the repeal of Section 51-277c of the general statutes.

Justice4Dukes Coalition, Christopher L. Dukes, supports the bill because it will reduce incidences of racial, gender, and implicit biases enabled by the status quo. Egregious misconduct can and has been committed at various levels by prosecutors with little or no action by the Criminal Justice Commission. He is citing the case against Richard Colangelo Jr. and Vicky Melchiorre, stating transparency and accountability is a must.

Member of the Coordinating Committee for Social Welfare Action Alliance Connecticut Chapter, Maggie Goodwin, supports this bill citing "interviewees" that have closely interacted and been impacted by prosecutorial accountability. The bill identifies real needs for change and passage would be a definite step in the right direction.

Policy Counsel for the American Civil Liberties Union of Connecticut, Jess Zaccagnino, supports the bill. Transparency is necessary to shed light on areas where prosecution perpetuates, rather than ameliorates, mass incarceration. This bill will promote change in important and realistic ways that can serve as a model for other states.

SEIU District 1199 New England supports the bill because it will remedy the existing problems in the Criminal Justice Commission and create a system that is fairer and just for everyone in Connecticut.

SEIU Member, Corey Geisman, supports the bill because legal prosecutors have a lot of power with very little accountability. Uniform statewide policies or code of ethics to govern how prosecutors carry out their duties is necessary. Lack of such policies or ethics allows for racial bias and discrimination.

Associate Professor of Social Work at Quinnipiac, Amber Kelly, PhD, supports this bill because it will lead to a more equitable and sensible criminal justice system for CT Residents by removing the prosecutorial discretion that can lead to lasting outcomes on our state system of incarceration.

Resident of Enfield, Ann Percival, supports the bill because awareness of implicit bias among prosecutors, and examination of systemic parameters that can reinforce unfair practices are vitally important. If someone is failing to carry out their duties fairly, disciplinary actions need to be put into place.

Leniqueca Welcome, Ph.D., supports the bill because it will increase accountability of prosecutors and can address the prosecutor's role in mass incarceration. This small step will rebuild communities in Connecticut.

NATURE AND SOURCES OF OPPOSITION:

The Thirteen State's Attorneys unanimously oppose the bill. There is no need to reduce the independence of Connecticut's prosecutors with the uninformed and ill-considered proposals in the bill. Actions on the federal level have shown how important prosecutorial independence is to ensuring public confidence in our criminal justice system. Modern democratic norms demand a criminal justice system administered based on a professional evaluation of the evidence and applicable law, not partisanship and politics.

President of The Connecticut Association of Prosecutors, Charles M. Stango, opposes the bill because the bill infringes upon the separation of powers doctrine by attempting to politicize and codify the autonomous discretion and decision-making authority of a constitutionally and statutorily independent, non-political Executive agency.

Past President of Connecticut Criminal Defense Lawyers Association, Frank J. Riccio II, opposes the bill because they are concerned that prosecutors will completely lose their discretion and resort to prosecuting in a "matrix-like fashion-if A, then B." While a prosecutor's power cannot be unlimited, it also should not be restricted in such a manner that discretion no longer applies.

Director of Public Policy and Communications of Connecticut Coalition Against Domestic Violence, Liza Andrews, is concerned about the bill and questions whether prosecutor decision-making and performance appraisals will ultimately improve the provision of justice as envisioned. The bill is written to understand and prevent possible injustices against individuals accused of crimes, but CCADV wants to remind the committee that crimes involve victims, and they wish that the bill would additionally try to prevent injustices against victims.

Mothers Against Drunk Driving opposes this bill because prosecutors need the discretion our State Constitution provides so that they can assure the victims of crime that they "did the right thing" in their case rather than decide based on arbitrary standards imposed from Hartford. Standards imposed by this legislation are not within the prosecutor's control.

Public Defender for the Fairfield Judicial District, Joseph G. Bruckmann, opposes this bill because it will result in the removal of prosecutorial discretion that will lead to the potential harm of many defendants. How a case looks on someone's chart should not be a factor that influences an outcome for clients, since each case and defendant is unique.

OTHER:

David Godbout opposes the bill stating the virtual committee process constitutes a violation of his Fourth Amendment Rights.

Reported by: Molly Lukiwsky

Date: 4/12/2022