

# Judiciary Committee JOINT FAVORABLE REPORT

**Bill No.:** HB-5500

AN ACT CONCERNING REVISIONS TO VARIOUS LAWS CONCERNING JUROR COMPENSATION, IGNITION INTERLOCK DEVICES, THE DEPARTMENT OF CORRECTION, JUDICIAL RETIREMENT SALARIES AND

**Title:** CRIMINAL LAW AND CRIMINAL PROCEDURE.

**Vote Date:** 3/28/2024

**Vote Action:** Joint Favorable Substitute

**PH Date:** 3/18/2024

**File No.:**

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## **SPONSORS OF BILL:**

Judiciary Committee

## **REASONS FOR BILL:**

There have been discussions between the Office of the Chief Public Defender, Department of Criminal Justice, Connecticut Sentencing Commission, and the Department of Correction on their legislative proposals. This bill includes their proposals related to juror compensation, risk protection orders, diversionary programs for IDD individuals, interlock devices, crimes related to transmitted communications, compensation for incarcerated individuals, bail payments, competency to stand trial, and credits for time served under house arrest.

## **SUBSTITUTE LANGUAGE:**

The substitute language removes the competency to stand trial and credits for time served under house arrest provisions. The substitute language also adds pardon language related to DUI's, judicial pensions, and maintaining criminal protective orders for individuals who plead insanity.

## **RESPONSE FROM ADMINISTRATION/AGENCY:**

**Commissioner Nancy Navarretta, Department of Mental Health and Addiction Services (DMHAS):** She testified in support of some of the bill and explained how section three describes how those with psychiatric disabilities or veterans with certain mental health conditions can participate in a supervised diversionary program administered by DMHAS. However, it does not support including persons with intellectual disabilities (ID) and persons

with autism spectrum disorder (ASD) in this grouping as other sister agencies serve these populations and adding them is not workable. DMHAS recommends that language from this section be removed and crafted into a new statute with parameters acceptable to the Departments of Social Services and Developmental Services. DMHAS does support section nine of this bill, which describes the factors the court must consider when determining the least restrictive placement appropriate and available to restore competency; they worked closely with the Sentencing Commission to develop this language.

**Commissioner Jordan Scheff, Department of Developmental Services:** He testified on the bill with concerns regarding section three, which describes the process for persons with psychiatric disabilities or veterans to participate in a diversionary program. It would include individuals with intellectual disability, which the Department sees as a problem because the language has several non-applicable references and is not appropriate for individuals with an intellectual disability since their supports and services are different for those with a psychiatric disability. A diversionary program for these individuals would require a different process. The Department requests the opportunity to work with the Committee to discuss the programs of the Department and figure out how to support individuals with intellectual disabilities.

**Deborah Sullivan, Legal Counsel and Director, Office of Chief Public Defender:** She testified in support of the bill, except for section eight, stating that it impacts clients for whom an attorney has requested a competency to stand trial examination because it provides discretion to the court on whether to order a competency examination. She explained that once a competency evaluation has been requested by counsel, the courts should not be required to consider the defendant's ability to participate in any other treatment or diversionary program. The Office submitted proposed language to substitute in lieu of what is currently in section eight, which asks that if the substitution is not adopted that section eight be removed entirely. The Office supports the rest of the bill and gives detailed descriptions of each section.

**Timothy Costello, Supervisory Assistant States Attorney, Chief States Attorney's Office:** He testified in support of Sections 1, 2, 3, 4, 5, 8, and 9 of the bill and takes no position on the rest of it. He stated that section one addresses the compensation of jurors because it is important that potential jurors can fulfill their duty without financial distraction. He also explained that he strongly supports section five because it seeks to clarify the legislature's intent and bring uniformity to all criminal offenses committed by means of communications transmitted by computer, cellphone, or other electronic device via various communication networks. He explained that it clarifies that these offenses can be seen as being committed either at the place where the communication originated or the place where it was received; this is done for jurisdictional purposes.

**David McCluskey, Legislative Liaison, CT Department of Correction:** He testified in support of sections six and seven of the bill stating that they make minor revisions to conform with legislative intent from last session. Section six revises a law from last year that was intended to increase the wages of incarcerated persons, but inadvertently lowered the wages of some; this will fix this issue so all have increased wages. The Department is also happy to work with the Committee if they want additional language to further this endeavor. He also explained that section seven rounds all cash bail amounts down to the nearest dollar so that coins are not needed to be collected by the DOC.

**Richard Robinson, Chief Justice, CT Judicial Branch:** He testified in support of the bill, specifically section one, which would increase the rate of juror compensation. He stated that increasing the rate of juror compensation was one of the recommendations of the Jury Selection Task Force, which recommended paying unemployed or part-time workers who serve as jurors the prevailing minimum wage for their jury service and providing them reimbursement for travel expenses and family care. In addition, it recommended paying full-time employees not compensated by their employer after the fifth day of jury service the prevailing minimum wage instead of the current \$50 per day; this will allow more people to be jurors, better improving the system of a jury of one's peers.

**Alex Tsarkov, Executive Director, CT Sentencing Commission:** He testified in support of the bill, particularly Sections 3, 8, and 9. He stated that section three comes from the recommendations of the Connecticut Sentencing Commission and would extend eligibility for the pretrial Supervised Diversionary Program to people with intellectual disabilities and people with autism spectrum disorder. It would also allow DDS and DSS to assist the Judicial Branch Court Support Services Division in assessing the individual and identifying the appropriate services and treatment. He explained that diversionary programs can be very beneficial in addressing the root cause of incarceration, such as homelessness, economic insecurity, substance abuse, and mental illness. He stated that sections eight and nine also come from recommendations of the Connecticut Sentencing Commission. Under section eight, the court shall order a competency exam except for when the defendant isn't charged with anything more than a misdemeanor in which case "the court may order a competency examination only after considering, based on all available information, whether participation by the defendant in a jail diversion program is not appropriate." In section nine, it is presumed that for misdemeanor cases, outpatient treatment is the least restrictive placement appropriate, but there is a list of factors for judges to consider to determine the least restrictive placement appropriate.

#### **NATURE AND SOURCES OF SUPPORT:**

**Molly Arabolos, President, CT Criminal Defense Lawyers Association:** She testified in support of the bill *except* for section eight. She explained that section one would allow jury pools to be a better reflection of our communities; section three would expand eligibility of the SDP for individuals with intellectual disabilities and autism. She stated that section six would increase pay to inmates based on factors determined by the Commissioner of Correction. In section eight, she testified in opposition to the "drastic change to 54-56d proceedings" and agrees with the Office of the Chief Public Defender.

**Deborah Dorfman, Executive Director & Attorney, Disability Rights Connecticut (DRCT):** She testified in support of the bill, particularly section three which proposes a supervised diversionary program for people with intellectual disabilities (ID) and people with autism spectrum disorder (ASD) to avoid incarceration. She believes this would help individuals avoid the carceral system, in which there have been well documented ill effects for them. She stated that section 3(d) would also require assessment of individuals with ID and ASD to determine appropriate treatment and services; she suggested that these assessments be carried out only by trained individuals.

**Kathy Flaherty, Executive Director, Connecticut Legal Rights Project:** She testified in support of the bill, stating that section two would expand eligibility for diversionary programs

to those with intellectual disabilities and persons with autism spectrum disorder. She stated that section eight would limit the use of competency restoration for misdemeanors and require the court to examine whether the person is first eligible for a diversionary program. She explained that section nine is about where competency restoration should take place and believes it may result in fewer misdemeanor defendants being sent to Whiting Forensic Hospital for competency restoration since restoration could happen in a community-based setting.

**Christine Sladyk:** She testified in support of the bill because of her personal experience with her son who was on house arrest for two years and during which time underwent treatment for alcoholism; her son was also sentenced to jail for over five years, and she thinks the two years in treatment and house arrest should count for time off his sentence.

**Kenneth Sladyk:** He testified in support of the bill because his son served over two years at home under house arrest which was ordered by the court so his son could receive psychiatric treatments, AA classes, and counseling.

#### **NATURE AND SOURCES OF OPPOSITION:**

None expressed.

**Reported by:** Hillary Desideraggio

**Date:** 4-2-24