

**Testimony of the Office of Protection and Advocacy for Persons with Disabilities
Before the Judiciary Committee**

Presented by: James D. McGaughey
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Good afternoon, and thank you for this opportunity to comment on several of the bills on your agenda today.

Our Office supports **Raised Bill No. 639, AN ACT CONCERNING SERVICES PROVIDED BY THE DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES TO ARRESTED PERSONS.** This bill would allow the DMHAS Jail Diversion program to serve individuals who are charged with felonies as well as misdemeanors. Experience with similar programs in several other states demonstrates that recidivism rates for persons with psychiatric disabilities who are charged with felonies can be significantly reduced by participation in jail diversion programs. This approach is more cost-effective and far more humane than incarcerating people whose misconduct is often a manifestation of mental illness. However, I would point out two significant factors to bear in mind:

- To the extent the matter has been studied, it appears that the success of post-arrest diversion programs that serve people accused of felonies depends on ensuring that supportive housing and effective programming are readily available. Perhaps the closest example of a diversion program with a good success record is the Nathaniel Project in New York City. All the project's clients have serious mental illness and are accused of felonies. This project finds apartments and supports people in them, initially providing intensive supervision, coordination and intervention all of which fades over time depending on individual response. As people experience stability in their living environment, often for the first time in years, they begin to make other investments in their own recovery – like getting work and staying in treatment and out of trouble. Currently, we have an enormous need for this type of supportive housing in Connecticut. Simply expanding the reach of jail diversion will not help unless we also address the shortage of supportive housing and other relevant services that people need in order to begin recovering their lives.
- In the interests of justice, the jail diversion process also needs to extend to people with mental disabilities other than psychiatric ones. I am referring specifically to people with intellectual disabilities, but the same principal could also apply to people with acquired brain injuries and autism spectrum disorders. The policy gaps confronting people with intellectual disabilities who run afoul of the criminal justice system is lesser known, but equally compelling to those affecting people with psychiatric disabilities. Few people

realize that simply having a diagnosis of mental retardation does not entitle a person to public services through the Department of Developmental Services. In the experience of our Office, unless a defendant has been found incompetent to stand trial and is subsequently committed to DDS, it is highly unlikely that he or she will receive any services. Our Office has advocated for a number of defendants with intellectual disabilities for whom alternatives to incarceration would have been readily accepted by all parties in the criminal justice system, but for whom DDS would not provide any services. Even sadder than seeing these people go to jail unnecessarily, is seeing them released at the end of their sentences without supports. Predictably, some reoffend, and face even stiffer penalties. DDS explains that it only has sufficient resources to serve people for whom it has legal responsibility. In short, I urge the Committee to amend this proposal to require DDS to establish a jail diversion program similar to DMHAS'. I have attached language that could be used for that purpose.

Our Office also supports **Raised Bill No. 5917, AN ACT CONCERNING A DEPARTMENT OF CORRECTION ADVISORY COMMISSION**. As the title implies, this proposal would establish an Advisory Commission to review DOC policies and practices and recommend changes. As the Committee is aware, increasing numbers of people with psychiatric disabilities have been incarcerated in recent years. Nationally, it is now estimated that over 20% of all prison inmates have a mental illness serious enough to require treatment and Connecticut estimates are similar. Many factors contribute to this unfortunate trend, but whatever its origins, it has tremendous implications for prison management, mental health care requirements, educational and rehabilitation programming, disciplinary practices and overall human rights. Considering that the correctional system also houses people with cognitive and intellectual disabilities, communications and sensory disabilities, and physical disabilities, it is heartening to note that our Office has been included on the membership of the commission.

Thank you for considering these comments. If there are any questions, please feel free to contact me and I will try to provide answers.