

CBA LPRC POSITION REQUEST FORM

The CBA Veterans and Military Affairs Section position request is as follows:

1) Proposed legislative or regulatory concept:

In order to qualify for public defender services in Connecticut, one must generally satisfy certain income guidelines. General Statutes § 51-289 enables the Public Defender Services Commission (“PDSC”) to enact rules governing, *inter alia*, “Income and Eligibility Guidelines for the represent of indigent individuals.” General Statutes § 51-289 (g).

VMAS seeks permission to request that the PDSC enact a rule or measure requiring the uniform exclusion of disability compensation received by a veteran from one’s gross annual income when determining one’s income eligibility for public defender services. Specifically, VMAS requests permission to take a position consistent with the proposal set forth in the appended draft correspondence to the PDSC and, furthermore, to present the proposal to the PDSC for its consideration.

2) A plain language explanation and rationale for advancing this position:

In Connecticut, veterans disability compensation is not uniformly included or excluded from one’s gross annual income in determining eligibility for public defender services. Some public defender offices exclude it when calculating one’s gross income. Other offices include it when calculating the same. It is VMAS’ understanding that the PDSC can remedy this lack of uniform treatment by way of its rulemaking power delegated by the legislature. See § 51-289 (g).

As stated previously, VMAS seeks to request that the PDSC create uniformity by enacting a rule or other measure that would exclude veterans disability compensation from the calculation of one’s gross income in determining eligibility for public defender services. As set forth in the draft correspondence, VMAS believes that it is appropriate to exclude such compensation, which is received on account of a disability that the U.S. Department of Veterans Affairs has deemed connected to one’s service in the United States Armed Forces, for several reasons.

3) Is a draft regulation, legislation or proposed bill included?

A draft copy of the proposed correspondence to the Public Defender Services Commission is appended.

4) What is the date of any legislative hearing, if known?

Not applicable.

5) Was this position previously approved by the CBA? If so, when does/did it expire?

No.

6) Is the CBA section or committee seeking to join a previously approved CBA section or committee position?

No.

7) Potential or actual CBA opposition from another CBA section or committee?

None that we know of.

8) Strength of section position (including process and results of section vote taken on issue):

Unanimous vote in favor by members present at regularly scheduled section meeting on February 16, 2022. One vote in favor by a member who was unable to attend the February 16, 2022 meeting.

9) Fiscal impact (on the state):

None.

Dated March 8, 2022
New Haven, Connecticut

Respectfully Submitted,

Dennis M. Carnelli, Chair
Veterans & Military Affairs Section
of the Connecticut Bar Association
dennis.carnelli@gmail.com

Veterans and Military Affairs Section

Connecticut Bar Association
30 Bank Street, New Britain, CT 06051

DATE, 2022

Public Defender Services Commission
c/o Attorney Allison M. Near, Chair
Jacobs & Dow, LLC
350 Orange St.
New Haven, CT 06511

Re: Income Eligibility Guidelines for Public Defender Services

Dear Attorney Near:

On behalf of the Veterans and Military Affairs Section and the Connecticut State Bar Association, we are requesting a change to the Income Eligibility Guidelines. As we understand it, the Public Defender Services Commission is statutorily (Conn. Gen. Stat. § 51-289) authorized to establish the rules necessary for carrying out the operations of Division of Public Defender Services, rules that include Income and Eligibility Guidelines for the representation of indigent individuals.

While the website containing these rules has bright-line eligibility requirements based off of gross income, as a section, we have come to learn that the distinct Public Defender Services Geographical Area and Judicial District Offices do not uniformly interpret the Income Eligibility Guidelines. See <https://portal.ct.gov/OCPD/Important-Information/Income-Eligibility-Guidelines-2021-2022>, site last visited January 24, 2022.

The change we are requesting is to uniformly direct the offices to not consider an applicant's service connected disability compensation when calculating gross income and determining a defendant's eligibility. We respectfully request this change because a veteran who is determined to be 100% disabled due to service connected disabilities will be found ineligible due to their disability compensation – in some but not all districts. We feel, and hope to persuade the commission, that service connected disability compensation should not be counted as gross earned income for the purposes of this calculation as such compensation is not taxed as federal or state income. Further, veterans with service connected disabilities are being compensated for injuries sustained during service to this country and that compensation should not preclude them from eligibility for the valuable services available from the Public Defender's office.

As mentioned above, several Public Defender offices are already waiving service connected disability compensation. We are requesting that the guidelines be updated to make this a uniformly followed modification.

Sincerely,

Section - or CBA – depending on where approval goes.