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JUDICIARY COMMITTEE

TO: Honorable Andrew J. McDonald, Chair, Rules Committee of the Superior Court  
FROM: The Judiciary Committee  
RE: Proposed Revisions to the Practice Book which the Rules Committee has Decided to Submit to Public Hearing  
DATE: May 9, 2019

Honorable McDonald,

We write in response to your invitation for us to review the many proposed judicial rules changes.

We received the following feedback with respect to the proposed Connecticut Judicial Practice Book rules change that would allow for ten percent cash bail to be posted with the police department (upon arrest) or in court (upon arraignment). As you may be aware, during the 2016 and 2017 legislative sessions, the Judiciary Committee worked with stakeholders to arrive at a compromise bail reform package supported by all the parties and enacted by the legislature in 2017 (PA 17-145).

While we are not expressing our opinion as to substance of the current cash bail proposal before you, we believe it is important that the Rules Committee and the judges understand that the exact change that is now being proposed, was proposed by Governor Malloy (2017, HB 7044, Sec. 2 (4)(A)). The legislature decided not to include this proposal in the final bill. We have heard concerns that this proposed change would bypass the will of the legislature.

Additionally, an issue was shared in the commentary to subsection (c)(5) of Rule of Professional Conduct 7.2 on page 20. The phrase "or otherwise indicates a sharing of either legal fees or the ultimate recovery in the referred case" could be interpreted to prohibit the sharing of legal fees or recovery by a proper referral agreement, which are specifically allowed under Rule 1.5. If the words "indicates a sharing" were replaced with "constitutes a sharing" or "evidences that the gift constitutes a sharing," that confusion would be resolved.

Thank you for your consideration and we welcome the opportunity to discuss this in more detail at your convenience.

Senator Gary Winfield  
Co-Chairman

Representative Steve Stafstrom  
Co-Chairman