

Connecticut General Assembly



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TO: Senator Andrew McDonald and Representative Michael Lawlor

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SUBJECT: Fiscal Estimates for proposals regarding Criminal Justice

You wanted to know the fiscal impact of fourteen proposals submitted to the Judiciary Committee in response to its informational hearing held on September 11, 2007.

A fiscal analysis of each proposal is provided in the following pages, along with a summary comparison of the proposals. Note that several of the proposals expand the scope of crimes that subject offenders to mandatory minimum prison sentences and/or lengthen the mandatory minimum prison sentence terms in place under current law. The fiscal analyses of these provisions assume that the mandatory minimum prison terms imposed under the proposals are served in full.

Please don't hesitate to contact us if you have any further questions in this regard.

Summary Comparison of the Proposals

Proposal #1 enhances the service of warrants for violations of probation, which could increase the cost of incarceration.

Proposal #2 establishes mandatory minimum prison sentences for certain burglary offenses, which extends the period of incarceration for about 230 offenders. The average annual cost of incarceration is \$9.6 million during the extended lengths of sentence.

Proposal #3 establishes mandatory minimum prison sentences for burglary offenses involving dwellings, which extends the period of incarceration for about 874 offenders. The average annual cost of incarceration is \$36.3 million over the extended lengths of sentence. In addition, this proposal subjects 224 offenders who burglarize buildings other than dwellings to lengthier periods of incarceration and probation by reclassifying this offense. The associated, average annual cost of incarceration is \$9.3 million.

Proposal #4 reclassifies certain burglary offenses and expands the use of mandatory minimum prison sentences, thereby subjecting about 702 offenders to lengthier periods of incarceration. The average annual cost of incarceration is \$27 million over the extended lengths of sentence. This proposal expands the state's criminal justice information technology system at an estimated, one-time cost of \$50 million - \$100 million. The proposal authorizes bond funds to build two correctional facilities; the total debt service to build these facilities is about \$400 million over twenty years and about \$130.5 million to operate them. This proposal requires the establishment of 200 residential treatment beds for sex offenders at an annual cost of \$15 - \$20 million. It expands the resources of the Judicial Department's Court Support Services Division to enforce warrants for violations of probation, which costs about \$10.8 million annually. The proposal has several other initiatives that, in aggregate, cost about \$5 million each year.

Proposal #5 increases or establishes mandatory minimum prison sentences for certain burglary offenses, thereby subjecting about 50 offenders to lengthier periods of incarceration. The average annual cost of incarceration is about \$1.6 million over the extended lengths of sentence. This proposal expands the use of GPS devices to track certain offenders on probation, which costs about \$950,000 each year. This proposal establishes a "three strikes and you're out" law for certain offenses that would increase the prison population by an estimated 5,356 inmates over the next 52 years: this provision would cost the court system about \$5 million annually upon passage and beginning nine years from passage, cost the prison system an additional \$4.28 million (FY 08 \$s) each year.

Proposal #6 establishes a mandatory minimum prison sentence for certain burglary offenses involving dwellings, which extends the period of incarceration for about 702 offenders. The average annual cost of incarceration is \$29.2 million during the extended lengths of sentence.

Proposal #7 establishes a mandatory minimum prison sentence for any person convicted of burglary in the second degree, which extends the period of incarceration for about 180 offenders. The average annual cost of incarceration is \$7.5 million during the extended lengths of sentence. It also expands the mandatory minimum prison sentence for burglary in the first degree, which extends the period of incarceration for about 30 offenders. The average annual cost of incarceration is \$773,760 during the extended lengths of sentence. This proposal costs about \$20 million annually to expand the use of GPS devices to monitor offenders on probation or parole. This proposal establishes a “three strikes and you’re out” law for certain offenses that would increase the prison population by an estimated 5,262 inmates over the next 52 years: this provision would cost the court system about \$5 million annually upon passage and beginning nine years from passage, cost the prison system an additional \$4.28 million (FY 08 \$s) each year.

Proposal #8 increases or establishes mandatory minimum prison sentences for certain burglary offenses, thereby subjecting about 50 offenders to lengthier periods of incarceration. The average annual cost of incarceration is about \$1.6 million over the extended lengths of sentence. This proposal expands the use of GPS devices to track certain offenders on probation, which costs about \$950,000 each year. This proposal would also cost about \$2 million to establish a parole registry. This proposal establishes a “three strikes and you’re out” law for certain offenses that would increase the prison population by an estimated 9,828 inmates over the next 52 years: this provision would cost the court system about \$5 million annually upon passage and beginning nine years from passage, cost the prison system an additional \$7.9 million (FY 08 \$s) each year.

Proposal #9 changes members of the Board of Pardons and Paroles to full-time staff (annual cost of \$1.9 million) and restricts the use of re-entry furloughs (annual cost of \$2.3 million).

Proposal #10 establishes a persistent burglary offender law that would subject 206 offenders to lengthier periods of incarceration. The average annual cost of incarceration is \$8.6 million over the lengths of sentence.

Proposal #11 requires copies of pre-sentence investigations and police reports to be sent to the Board of Pardons and Paroles, at an annual cost of less than \$50,000.

Proposal #12 requires psychiatric exams to be conducted for certain offenders eligible for parole release, at an annual cost estimated to be \$232,000.

Proposal #13 appropriates (FY 09) \$1.95 million to enhance the training and recruitment of registered nurses.

Proposal #14 makes changes that have no fiscal impact.

Proposal #1, AAC the Participation of Probation Officers in Warrant Squads

The bill makes clear that the state indemnifies probation officers under certain conditions, thereby permitting probation officers to join warrant squads around the state with U.S. Marshals, Parole Officers, State Police, and others. These agencies would in turn assist probation officers in the service of their warrants. Probation officers already assigned exclusively to serve warrants could accommodate any workload increase under the bill within the normal course of their duties and at no additional cost. To the extent that the bill increases the number of warrants served and subsequent readmissions to prison, a potential cost for incarceration exists.

Proposal #2, AAC Burglary and Persistent Offenders

Mandatory Minimum Prison Sentences / Offense Reclassification

Section 1 expands the crime of burglary in the first degree, which is a class “B” felony, to include criminal actions that current law classifies as burglary in the second degree, which is a class “C” felony. It also establishes a mandatory minimum prison term of five years for these offenders.

In FY 07 there were approximately 180 individuals sentenced with burglary offenses who could have been eligible for increased sentences under this section¹. The average time served for this category of inmates is 2.08 years². Increasing the penalty and establishing a 5 year mandatory minimum (2.92 years longer than the current average time served) for similar offenders in the future could cost the state an estimated \$7.5 million annually, over the length of sentence³.

Reclassification of these offenses increases the potential term of probation supervision that may be imposed on these offenders in addition to imprisonment. On average, the probation term for burglary in the first degree is 20% longer than burglary in the second degree. There are currently 251 offenders under direct probation supervision in the community who have been found guilty of burglary in the second degree. An 18% increase in their probation terms results in 45 additional probation clients. In order to provide a high level of supervision for these offenders, one additional Adult Probation Officer would be needed at an annual cost of about \$150,000, including salary, fringe benefits, expenses, and contracted services (e.g., drug abuse treatment).

Section 2 establishes the crime of aggravated burglary in the first degree, which includes armed burglary. It makes this crime a class “A” felony, punishable by 20 years to life imprisonment, and provides for a mandatory minimum prison sentence of 10 years.

In FY 07 there were approximately 50 individuals sentenced with burglary offenses who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 4.38 years⁴. Increasing the penalty and establishing a 10 year mandatory minimum (5.62 years longer than the current average time served) for similar offenders in the future could cost the state an estimated \$2.08 million annually, over the length of sentence⁵.

There are 25 offenders under active probation supervision who are guilty of burglary in the first degree involving bodily injury or deadly weapon. Given this relatively low

¹ This estimate does not include additional offenders under 1(a)(5) for which an accomplice is specified. The number of burglaries with accomplices is unknown, but would potentially increase the cost of this estimate.

² Note that average time served reflects parole eligibility at 50% rather than 85%.

³ 180 inmates * 2.92 years * \$41,600 (average cost of incarceration) / 2.92.

⁴ Note that average time served reflects parole eligibility at 50% rather than 85%.

⁵ 50 inmates * 5.62 years * \$41,600 (average cost of incarceration) / 5.62.

figure, any cost to adult probation for extended probation terms is anticipated to be minimal under this provision.

Graduated Penalties

Sections 3 and 4 establish graduated penalties for repeat offenders of burglary in the second and third degrees.

In FY 07 there were approximately 3 individuals sentenced with burglary offenses who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 1.2 years⁶. Increasing the penalty and establishing a 3 year mandatory minimum (1.8 years longer than the current average time served) for similar offenders in the future could cost the state an estimated \$124,800 annually, over the length of sentence⁷. Any cost to adult probation under this provision is anticipated to be minimal given the relatively few offenders involved.

Of the offenders sentenced for burglary in FY 07, 206 (21%) had at least 2 prior sentences of burglary⁸. The repeat offenders would be eligible for increased sentences, and each additional year an inmate is incarcerated the cost to the state increases by \$41,600. To the extent that enhanced penalties result in lengthier probation terms for future offenders, the cost to the state increases by roughly \$3,700 each year.

Parole Eligibility

Section 5 makes any person convicted of burglary in the first degree (as amended by the bill) or the bill's crime of aggravated burglary in the first degree ineligible for parole release until that person has served 85% of his/her prison sentence. Increasing parole eligibility to 85% would increase the average time served, which could result in additional costs, depending on the length of sentences actually imposed beyond the mandatory minimum.

Persistent Offenders

Sections 7 – 13 expand the crimes that trigger the persistent offender laws. Currently there are approximately 40 offenders in DOC custody classified as persistent offenders. It is unknown how many of the 40 persistent offenders are a persistent dangerous felony offender, a persistent serious felony offender, or a persistent felony offender. It is estimated that expanding the persistent offender laws could impact up to 50 individuals per year. Data on the average time served for the offenders is not readily available; however, these individuals could be subject to significantly longer sentences. If all 50 individuals were to receive an increased sentence, the cost to the state would be approximately \$2.08 million annually.

⁶ Note that average time served reflects parole eligibility at 50% rather than 85%, and average time served for burglary in the third degree is not broken out into 53a-103 and 53a-103a.

⁷ 3 inmates * 1.8 years * \$41,600 (average cost of incarceration).

⁸ Information on the length of sentence for these individuals is not readily available.

Proposal #3, AAC Home Invasion Protection

Mandatory Minimum Prison Sentences

Section 1 enhances the criminal penalty for armed burglary of a dwelling. Current law provides for a mandatory prison sentence of 5 years for these convicted offenders; this section increases the mandatory minimum prison sentence to 25 years.

In FY 07 there were approximately 50 individuals sentenced with burglary offenses who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 4.38 years. Establishing a mandatory minimum sentence of 25 years (20.62 years longer than the current average time served) for similar offenders in the future could cost the state up to \$2.08 million annually, over the length of sentence⁹.

Section 2 enhances the criminal penalty for burglary of a dwelling that involves the use or threatened use of physical force by a perpetrator against any person lawfully present in the building. Current law provides no mandatory minimum prison sentence for this crime; this section establishes a mandatory minimum prison sentence of 20 years.

In FY 07 there were approximately 122 individuals with burglary offenses who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 3.23 years. Establishing a mandatory minimum of 20 years (16.77 years longer than the current average time served) for similar offenders in the future could cost the state up to \$5.07 million annually, over the length of sentence¹⁰.

Section 3 enhances the criminal penalty for burglary of an occupied dwelling that does not involve either weapons or physical violence. Current law does not provide for a mandatory minimum prison sentence; this section of the bill establishes a mandatory minimum prison sentence of 10 years.

In FY 07 there were approximately 90 individuals sentenced with burglary offenses who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 1.65 years. Establishing a mandatory minimum of 10 years (8.35 years longer than the current average time served) for similar offenders in the future could cost the state up to \$3.74 million annually, over the length of sentence¹¹.

Section 4 enhances the criminal penalty for burglary of an unoccupied dwelling. Current law provides for no mandatory minimum prison sentence; this section establishes a mandatory minimum prison sentence of 5 years.

⁹ 50 inmates * 20.62 years * \$41,600 (average cost of incarceration) / 20.62. Note that average time served reflects parole eligibility at 50%, rather than 85%.

¹⁰ 122 inmates * 16.77 years * \$41,600 (average cost of incarceration) / 16.77. Note that average time served reflects parole eligibility at 50%, rather than 85%.

¹¹ 90 inmates * 8.35 years * \$41,600 (average cost of incarceration) / 8.35. Note that average time served reflects parole eligibility at 50%, rather than 85%.

In FY 07 there were approximately 612 individuals sentenced with burglary offenses who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 1.2 years. Establishing a mandatory minimum of 5 years (3.8 years longer than the current average time served) for similar offenders in the future could cost the state up to \$25.4 million annually, over the length of sentence.¹²

Section 10 increases from 1 to 2 years the mandatory minimum sentence for an offender who commits burglary in the second degree with a firearm. In FY 07 there was only 1 individual convicted of this crime, therefore the cost to the state to increase the penalty is estimated at about \$41,600 per year.

Parole Eligibility

Section 5 makes any person convicted of the new crime of home invasion ineligible for parole release until that person has served 85% of his/her prison sentence. Increasing parole eligibility to 85% would increase the average time served, which could result in additional costs, depending on the length of sentences actually imposed beyond the mandatory minimum.

Section 6 prohibits offenders convicted of home invasion from eligibility for any credit that would reduce their mandatory minimum prison sentences. It also prohibits these offenders from being eligible for any temporary leave, furlough or any other early release program.

It is unknown how many offenders annually would not be released across early release mechanisms as a result of the change. By not releasing a single offender (and assuming that on average each offender would be released approximately 25 days early) it is estimated that the cost to the state would be approximately \$2,849¹³, annually.

Offense Reclassification

Sections 9-10 enhance the penalty for burglary of any building other than a dwelling. These sections effectively raise the maximum prison sentence (from 5 to 10 years) that may be imposed on any person convicted of unlawfully entering or remaining in such a building with the intent to commit a crime.

In FY 07 there were approximately 224 individuals sentenced with burglary offenses who could have been eligible for increased sentences under this section. The average time served for this category of individuals is 1.2 years (or 24% of the current maximum penalty). The estimated increased time served would be approximately 2.4 years (1.2 years longer than the current average time served) for these individuals. Increasing the sentence for similar offenders in the future could cost the state approximately \$9.3 million annually, over the length of the sentence.¹⁴

¹² 612 inmates * 3.8 years * \$41,600 (average cost of incarceration) / 3.8. Note that average time served reflects parole eligibility at 50%, rather than 85%.

¹³ 1 offender*25 days*\$114 per day

¹⁴ 224 * 1.2 * \$41,600 / 1.2

Reclassification (from “D” to “C”) of offenses involving burglaries of buildings (other than dwellings) increases the potential term of probation supervision that may be imposed on these offenders in addition to imprisonment. On average, the probation term for burglary in the second degree is 6% longer than burglary in the third degree. There are currently 1,289 offenders under direct probation supervision in the community who have been found guilty of burglary in the third degree. A 6% increase in their probation terms results in 76 additional probation clients. In order to provide a high level of supervision for these offenders, 1.5 (Full Time Equivalent) Adult Probation Officers would need to be added at an annual cost of about \$250,000, including salary, fringe benefits, expenses, and contracted services (e.g., drug abuse treatment).

Proposal #4, AAC Home Invasion, Career Criminals, Community Supervision and Information Sharing Resources

Mandatory Minimum Prison Sentences / Offense Reclassification

Section 1 expands the scope of burglary in the first degree to include certain offenses that current law classifies as burglary in the second degree, and provides for a mandatory term of imprisonment for any person convicted. In FY 07 there were approximately 180 individuals sentenced with burglary offenses who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 2.08 years¹⁵. Increasing the penalty and establishing a longer sentence (2.32 years longer than the current average time served) for similar offenders in the future could cost the state an estimated \$7.5 million annually, over the length of sentence¹⁶.

Section 3 expands the scope of burglary in the second degree to include certain offenses that current law classifies as burglary in the third degree. In FY 07 there were approximately 522 individuals sentenced with burglary offenses who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 1.2 years¹⁷. Increasing the penalty and establishing a longer sentence (.9 years longer than the current average time served) for these offenders could cost the state an estimated \$19.5 million annually, over the length of sentence¹⁸.

Parole Eligibility

Section 4 makes any person convicted of the new crime of home invasion ineligible for parole release until that person has served 85% of his/her prison sentence. Increasing parole eligibility to 85% would increase the average time served, which could result in additional costs, depending on the length of sentences actually imposed beyond the mandatory minimum.

Persistent Offenders

Section 5 includes first degree burglary in the persistent offender statutes. **Sections 6 - 9** eliminate the factual finding currently required to trigger enhanced penalties under persistent offender laws. It is estimated that these changes will impact less than 50 individuals per year. Data on the average time served for this category of inmates is not readily available; however, these individuals could be subject to significantly longer sentences. If all 50 individuals were to receive an increased sentence, the cost to the state would be approximately \$2.08 million annually.

¹⁵ Note that average time served reflect parole eligibility at 50% rather than 85%.

¹⁶ 180 inmates * 2.32 years * \$41,600 (average cost of incarceration)/2.32.

¹⁷ Note that average time served reflect parole eligibility at 50% rather than 85%.

¹⁸ 522 inmates * .9 years * \$41,600 (average cost of incarceration).

Nonviolent Offender Release Program

Section 11 allows the Commissioner of Correction, the chairperson of the Board of Pardons and Paroles, or the executive director of the Court Support Services Division of the Judicial Branch to apply to the sentencing court or judge for review of the sentence of any non-violent offense if said commissioner, chairperson or executive director believes that such offender could be more suitably supervised in the community. Any workload to apply to the sentencing court could be accommodated within budgeted resources.

Criminal Justice Information Technology

Section 12 requires OPM to develop SHIELD, a Criminal Justice Information System, to facilitate the immediate, seamless and comprehensive sharing of information between state entities involved in law enforcement and criminal justice. The cost to develop this new system is estimated at \$50 million to \$100 million.

The state currently operates an integrated criminal justice information system (CJIS)¹⁹ that contains many of the requirements of SHIELD (see comparison in Appendix). The cost of CJIS development to date totals \$44.8 million (not including operational costs). Although the manner of implementation of SHIELD is unclear at this time, it appears that CJIS would be expanded to accommodate the new requirements of SHIELD rather than developed as a new standalone system.

Bond Authorizations for New Prisons

Sections 13 and 15 authorize the issuance of up to \$260 million in General Obligation (GO) bonds for the planning and construction of two correctional facility projects: (1) Section 13 authorizes up to \$110 million for a 1,000 bed medium security correctional institution and (2) Section 15 authorizes up to \$150 million for a 1,200 medical and mental health facility for persons committed to the custody of the Commissioner of Correction. The debt service cost to bond \$260.0 million over 20 years, assuming a 5.0% interest rate, is \$396.5 million.

The annual operating cost for these two facilities is estimated to be \$130.5 million in total (\$41.6 million for the 1,000 bed medium security prison and \$88.9 million²⁰ for the 1,200 bed medical and mental health facility).

Agency Studies

Sections 17 and 18 require certain state agencies to conduct research on the feasibility of making information concerning parolees and probationers available to the public over the Internet and determine the number of persons released into the community on probation, parole or any other supervised release program who should be subject to electronic monitoring by the use of a global positioning system. The agencies would incur a

¹⁹ CJIS is the organizational structure and umbrella administration for statewide criminal information system efforts. It is not a specific data system.

²⁰ The \$88.9 million estimate is based upon the average cost of incarceration at Garner, which is \$74,095 annually. If the new facility were to offer expanded services from that of Garner, the operational costs would be higher.

minimal (less than \$50,000), one-time cost to conduct these studies and report to the Judiciary Committee by February 6, 2008, in accordance with the bill.

Violations of Probation

Section 19 requires the Court Support Services Division to prepare a quarterly report, and make available on the Internet information concerning all outstanding arrest warrants for violation of probation. The agency presently has this information available in electronic format. It is anticipated that the agency would incur a one-time cost of less than \$10,000 to develop the necessary website. It would incur an annual cost, estimated to be less than \$5,000, to maintain the website and program software needed to comply with this provision.

Section 20 requires the Judicial Branch to hire an additional twenty-five probation officers for purposes of executing arrest warrants for violation of probation. The annual budgetary cost of this requirement is \$2.5 million, including salaries, fringe benefits and expenses. In addition, an initial cost of \$400,000 would be incurred to pay for equipment, including the purchase of automobiles. This budget change would more than double the resources of the Court Support Services Division devoted exclusively to the service of warrants for violations of probation. As a result of this expansion, the prison population is anticipated to increase by more than 200 inmates on an annualized basis. The estimated, annual cost to the DOC is \$8.32 million.

Domestic Violence Victim Advocacy

Section 21 requires the Judicial Branch to ensure that there is a domestic violence victim advocate available in each geographical area and judicial district courthouse (33 courts in total) to provide assistance to victims of domestic violence at court proceedings. At present, there are domestic violence victim advocates under contract, at an annual rate of \$50,000 per court, in five of the eight geographical area courts that have domestic violence dockets. In order to expand coverage to every courthouse, the state would incur an annual contractual cost estimated to be \$1.35 million (27 courts * \$50,000).

Resources for the Board of Pardons and Paroles

Section 22 requires the Office of Victim Services (a Division within the Judicial Department) to assign two victim advocates to provide full-time assistance to victims who appear before a panel of the Board of Pardons and Paroles, including the submission of written statements to the panel in accordance with CGS 54-126a. The annual cost of this provision is estimated to be \$165,000, including salaries, fringe benefits and other expenses. In addition, an initial cost of \$7,000 would be incurred to pay for equipment.

Section 23 requires the Board of Pardons and Paroles to employ at least one forensic psychologist. It is estimated that the annual cost of employing a forensic psychologist is \$112,140-\$150,588 annually, including fringe benefits.

Sex Offender Treatment

Sections 24-25 require the Department of Correction and Court Support Services Division of the Judicial Department to contract for a total of two hundred beds in staff

secure residential sex offender treatment facilities. The annual contractual cost for these residential facilities is estimated to be \$15 - \$20 million.²¹

Nursing and Mental Health Staff Resources for DOC

Section 26 requires the Department of Correction to establish a special overtime staffing program for nurses and mental health staff to reduce the use of mandatory overtime. The information required to complete this analysis is not readily available at this time.

Section 27 requires the Department of Correction to fill all authorized positions for mental health staff that are currently vacant. The Department of Correction does not have any vacancies for mental health staff. However, the current contract with UCONN Health Center has 13 vacancies for mental health staff. The 10 positions are funded positions, and the annual salary for the 10 positions totals approximately \$953,000.

Offender Re-Entry Programs

Section 29 appropriates (FY 09) funds, in the amount of \$1.75 million, to state agencies to expand re-entry programs for offenders entering the community. At present, programs in New Haven and Hartford each receive about \$500,000 annually from an appropriation to the Judicial Department; a program in Bridgeport receives \$275,000 from an appropriation to the Department of Correction. The appropriations in this section would increase the amounts that each of the three programs receives to about \$1 million in FY 09.

The FY 09 budget is currently \$28.2 million under the statutory spending cap. This appropriation would put the budget within \$26.45 of the spending cap limit. Exceeding the cap would require a declaration from the governor and a three-fifths vote of the legislature.

Spending Cap

Section 30 restates the Constitutional and statutory procedure for exceeding the state's spending cap on appropriations.

²¹ On average, it is estimated that residential treatment facilities for sex offenders would cost \$75,000 to \$100,000 per slot. This cost is more than the average \$25,000 cost for residential substance abuse treatment facilities primarily because of the following: (1) higher levels of clinical staff and services would be made available; (2) higher levels of security (hardware and staffing) would be used; and (3) medical services would be provided on site.

Proposal # 5, AAC Reform of Criminal Sentencing, Parole Release, Community Supervision and Death Penalty Appeal Procedures

Persistent Offenders

Section 2 expands the persistent dangerous felony offender statute to include burglary in the first or second degrees.

It is estimated that expanding the persistent dangerous felony statute to include burglary in the first or second degree will impact less than 50 individuals per year. Data on the average time served for this category of inmates is not readily available; however, similar individuals in the future could be subject to significantly longer sentences. If all 50 individuals were to receive an increased sentence, the cost to the state would be approximately \$2.08 million annually.

“Three Strikes”

Section 3 establishes a “three strikes and you’re out” law that provides for a mandatory sentence of life imprisonment for any person who is convicted of a dangerous felony²² after having been twice convicted and imprisoned for committing or attempting to commit dangerous felonies.

Over the past 5 years, of all inmates released from a facility, an average of 103 inmates per year had been convicted of a dangerous felony, and had two prior convictions for a dangerous felony. Assuming a similar trend was to continue, 103 inmates each year would be eligible for a sixty-year sentence under the provisions contained within the bill.

On average, these 103 offenders received a prison sentence of 8 years. The fiscal impact of the new policy would not occur until approximately 8 years after adoption, when the original inmates incarcerated under the bill would have been eligible for release. It is anticipated that on average (after the initial 8 years) the offender population will continue to grow at an estimated rate of 103 additional inmates per year, for 52 years, for a total of 5,356 additional inmates at the end of that time.²³ Each 103 additional offenders would cost approximately \$4.28 million annually, over the increased length of sentence.²⁴

These costs do not include additional facility space requirements. A new 1,000 bed high security prison facility costs approximately \$110 million for construction.

²² Under the bill, “dangerous felony” means: (1) murder other than a capital felony; (2) manslaughter; (3) arson; (4) kidnapping; (5) robbery in the first or second degree; (6) robbery involving an occupied motor vehicle; (7) assault constituting a felony; (8) sexual assault in the first or third degree; (9) aggravated sexual assault in the first degree; (10) sexual assault in the third degree with a firearm; (11) burglary in the first or second degree; (12) stalking in the first degree; or (13) stealing a firearm.

²³ The average additional inmates per year does not take into account plea-bargaining changes, offenders living the entire 60 year period, or offenders who would qualify based on offenses committed in other jurisdictions.

²⁴ 103 offenders * \$41,600 (average cost of incarceration).

An average of 103 inmates admitted to a correctional facility each year would be subject to life imprisonment under the bill. Based on this figure, it is estimated that 84 to 169 felony trials could be conducted each year under the bill.²⁵ In order to accommodate this increase in trials and subsequent habeas motions and appeals, it is estimated that 38 positions would need to be added to the Division of Criminal Justice and Public Defender Services Commission, at a total annual state cost of \$5 million, including salaries, expenses, fringe benefits and other litigation costs. An initial cost of about \$200,000 would also be incurred to purchase necessary equipment, including automobiles. The Judicial Department would incur annual costs, estimated to be less than \$100,000, to provide services (e.g., jury fees, staff overtime, etc.) in support of the additional felony trials that are expected to take place under the bill.

Mandatory Minimum Prison Sentences

Section 4 increases the mandatory minimum prison sentence (from five to six years) for any person convicted of armed burglary in the first degree. It also establishes a mandatory minimum prison sentence of five years for any person convicted of burglary in the first degree involving the actual or attempted infliction of bodily injury on anyone.

In FY 07 there were approximately 20 individuals sentenced with burglary offenses who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 4.38 years²⁶. Increasing the penalty for armed burglary in the 1st, and establishing a 6 year mandatory minimum (1.62 years longer than the current average time served) for similar offenders in the future could cost the state an estimated \$832,000 annually, over the length of sentence²⁷.

Additionally, there were approximately 30 individuals who would be eligible for a mandatory minimum of 5 years. The average time served for this category of inmates is 4.38 years²⁸. Increasing the penalty for unarmed burglary in the 1st (.62 years longer than the current average time served) for similar offenders in the future could cost the state an estimated \$773,760 over the portion of the years that the offenders would be incarcerated longer.

Section 5 establishes a mandatory minimum prison sentence of two years for any person convicted of burglary in the second degree.

²⁵ This range assumes that 50% to 100% of the 103 additional inmates are sentenced to prison after a trial. In order to estimate the total number of trials (involving not only the 103 sentenced inmates but also any defendants found not guilty or whose cases are nolle prosequi prior to verdict), the conviction rate of Judicial District trials tried to conclusion, which is 61%, is used. The estimate of additional felony trials under the bill is thus calculated as follows: $51/0.61 = 84$; $103/0.61 = 169$. Note that the extent to which “three strikes” charges would ultimately be enforced through trial is uncertain. In practice, the use of plea bargaining could diminish the projected annual increase in the number of trials.

²⁶ Note that average time served reflects parole eligibility at 50% rather than 85%.

²⁷ 20 inmates * 1.62 years * \$41,600 (average cost of incarceration).

²⁸ Average time served for 53a-101 and 53a-101a is not broken out separately.

In FY 07 there were approximately 180 individuals sentenced with burglary offenses who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 2.08 years²⁹. Since the average time served is longer than the mandatory minimum, increasing the mandatory minimum will not impact the sentence length for a portion of the offenders. To the extent that certain offenders are not serving at least 2 years, it would cost the state an additional \$41,600 per year, per offender.

Section 6 increases the mandatory minimum prison sentence (from one to three years) for any person convicted of burglary in the second degree with a firearm.

In FY 07 there was only 1 individual sentenced with a burglary offense who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 1.64 years³⁰. Increasing the penalty (1.36 years longer than the current average time served) for similar offenders in the future could cost the state an estimated \$56,576 annually, over the length of the sentence³¹.

Section 7 establishes a mandatory minimum prison sentence of one year for any person convicted of burglary in the third degree.

In FY 07 there were approximately 746 individuals sentenced with burglary offenses who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 1.2 years³². Since the average time served is longer than the mandatory minimum, increasing the mandatory minimum will not impact the sentence length for a portion of the offenders. To the extent that certain offenders are not serving at least 1 year, it would cost the state an additional \$41,600 per year, per offender.

Section 8 increases the mandatory minimum prison sentence (from one to two years) for any person convicted of burglary in the third degree with a firearm.

In FY 07 there were approximately 3 individuals sentenced with burglary offenses who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 1.2 years³³. Increasing the penalty (.8 years longer than the current average time served) for similar offenders in the future could cost the state an estimated \$99,840 annually, over the length of the sentence³⁴.

²⁹ Note that average time served reflects parole eligibility at 50% rather than 85%.

³⁰ Note that average time served reflects parole eligibility at 50% rather than 85%.

³¹ 1 inmate*1.36*\$41,600 (average cost of incarceration).

³² Note that average time served reflects parole eligibility at 50% rather than 85%.

³³ Note that average time served reflects parole eligibility at 50% rather than 85%, and the average time served for 53a-103 and 53a-103a are not reflected separately.

³⁴ 1 inmate*1.36*\$41,600 (average cost of incarceration).

Parole Eligibility

Section 9 makes any person convicted of burglary in the second and third degree ineligible for parole release until that person has served 85% of his/her prison sentence. Increasing parole eligibility to 85% would increase the average time served, which could result in additional costs, depending on the length of sentences actually imposed beyond the mandatory minimum.

GPS

Section 11 requires use of the global positioning system (GPS) for any person sentenced to probation or conditional discharge for first or second degree burglary.

As of October 2, 2007, there were 392 offenders under probation supervision in the community who were convicted of either first degree (39 offenders) or second degree (353 offenders) burglary; seven of these offenders are presently under electronic monitoring via Radio Frequency devices, which cost \$1,168 annually per offender.

Each year on average, there are no offenders charged with first degree burglary and less than five offenders charged with second degree burglary who receive a sentence of conditional discharge. Assuming that these offenders are placed under supervision for the same period of time as those offenders sentenced to probation, this provision in the bill would increase by about 30 (4 sentenced offenders * 6 years supervision) the number of clients under supervision of the Court Support Services Division and subject to monitoring by GPS.

This section would extend electronic monitoring through the use of GPS devices to about 400 more offenders (approximately 390 probationers + 30 offenders under conditional discharge) under community supervision by the Court Support Services Division. The annual, contractual cost to provide passive GPS monitoring is \$2,354 per client. In total, the contractual cost is estimated to be \$941,600 per year (400 offenders * \$2,354) under the bill. This provision could also result in a cost for additional staffing to handle the workload associated with monitoring offenders via GPS.

Death Penalty

Sections 13-15 place stricter timelines on the imposition of the death penalty. By reducing the period of time from imposition of the death penalty sentence to actual administration of it, this bill could yield state savings by decreasing costs associated with protracted litigation and lengthier periods of incarceration.

Proposal # 6, AAC Occupied Home Invasion

Mandatory Minimum Prison Sentences

The bill establishes a new crime of occupied home invasion and makes it a class “A” felony, which carries a mandatory minimum prison sentence of 10 years³⁵ rather than 1-10 years, as provided for under current law (current law designates such an offense as burglary in the second degree, which is a class “C” felony). The bill also requires any person convicted of the new crime of occupied home invasion to serve 85% of the prison sentence before the offender is eligible for parole.

In FY 07 there were approximately 702 inmates sentenced with burglary offenses that could have been eligible for an increased sentence under the new crime. The average time served for this category of inmates is 1.65 years³⁶. Assuming a similar number of burglary offenses occur in the future, the cost of creating a new crime of occupied home invasion, with a mandatory minimum of 10 years (8.35 years longer than the current average time served) is estimated to be \$29.2 million annually³⁷.

Parole Eligibility

The bill makes any person convicted of the bill’s crime of occupied home invasion ineligible for parole release until that person has served 85% of his/her prison sentence. Increasing parole eligibility to 85% would increase the average time served, which could result in additional costs, depending on the length of sentences actually imposed beyond the mandatory minimum.

Persistent Offenders

Additionally, the bill subjects any person convicted of occupied home invasion to enhanced criminal penalties for persistent dangerous felony offenders.

It is estimated that expanding the persistent dangerous felony statute to include occupied home invasion will impact less than 50 individuals per year. Data on the average time served for this category of inmates is not readily available; however, similar individuals in the future could be subject to significantly longer sentences. If all 50 individuals were to receive an increased sentence, the cost to the state would be approximately \$2.08 million annually.

The bill limits the enhanced penalty for persistent dangerous felony offenders to any person convicted of two (rather than one) predicate crime. It also allows a judge to strike a previous offense when sentencing any persistent dangerous felony offender. The

³⁵ The minimum statutory term of imprisonment for a class “A” felony is ten years. CGS 53a-29 prohibits the court from imposing a sentence of conditional discharge (suspended sentence) or probation upon conviction of any class “A” felony, which effectively establishes a mandatory minimum prison sentence of ten years.

³⁶ The average time served reflects eligibility of parole at 50%, rather than 85%.

³⁷ 702 inmates * 8.35 * \$41,600 (average cost of incarceration) / 8.35.

manner and extent to which judges will exercise this discretion, and the associated fiscal impact, are unknown.

Proposal # 7, AAC Criminal Sentencing and the Parole Process

“Three Strikes”

Section 1 establishes a “three strikes and you’re out” law that provides for a mandatory sentence of life imprisonment for any person who is convicted of certain offenses³⁸ after having been twice convicted and imprisoned for committing or attempting to commit the offenses listed in this section.

Over the past 5 years, of all inmates released from a facility, an average of 101 inmates per year had been convicted of a dangerous felony, and had two prior convictions for a dangerous felony. Assuming a similar trend was to continue, the 101 inmates would be eligible for a sixty-year sentence under the provisions contained within the bill.

On average, these past 101 offenders received a prison sentence of 7.9 years. The fiscal impact of the new policy would not occur until approximately 7.9 years after adoption, when the original inmates incarcerated under the bill would have been eligible for release. It is anticipated that on average (after the initial 7.9 years) the offender population will continue to grow at a rate of 101 additional inmates per year, for 52.1 years, for a total of 5,262 additional inmates³⁹. Each 101 additional offenders would cost approximately \$4.2 million annually, over the increased length of sentence⁴⁰.

These costs do not include additional facility space requirements. A new 1,000 bed high security prison facility costs approximately \$110 million for construction.

An average of 101 inmates admitted to a correctional facility each year would be subject to life imprisonment under the bill. Based on this figure, it is estimated that 82 to 164 felony trials would be conducted each year under the bill.⁴¹ In order to accommodate this increase in trials and subsequent habeas motions and appeals, it is estimated that 38 positions would need to be added to the Division of Criminal Justice and Public Defender

³⁸ These offenses include: (1) manslaughter; (2) arson; (3) kidnapping; (4) robbery in the first or second degree; (5) robbery involving an occupied motor vehicle; (6) assault constituting a felony; (7) sexual assault in the first or third degree; (8) aggravated sexual assault in the first degree; (9) sexual assault in the third degree with a firearm; (10) burglary in the first or second degree; (11) stalking in the first degree; and (12) stealing a firearm.

³⁹ The average additional inmates per year does not take into account plea-bargaining changes, offenders living the entire 60 year period, or offenders who would qualify based on offenses committed in other jurisdictions.

⁴⁰ 101 offenders * \$41,600 (average cost of incarceration).

⁴¹ This range assumes that 50% to 100% of the 101 additional inmates are sentenced to prison after a trial. In order to estimate the total number of trials (involving not only the 101 sentenced inmates but also any defendants found not guilty or whose cases are nolle prior to verdict), the conviction rate of Judicial District trials tried to conclusion, which is 61%, is used. The estimate of additional felony trials under the bill is thus calculated as follows: $50/0.61 = 82$; $101/0.61 = 164$. Note that the extent to which “three strikes” charges would ultimately be enforced through trial is uncertain. In practice, the use of plea bargaining could diminish the projected annual increase in the number of trials.

Services Commission, at a total annual state cost of \$5 million, including salaries, expenses, fringe benefits and other litigation costs. An initial cost of about \$200,000 would also be incurred to purchase necessary equipment, including automobiles. The Judicial Department would incur annual costs, estimated to be less than \$100,000, to provide services (e.g., jury fees, staff overtime, etc.) in support of the additional felony trials that are expected to take place under the bill.

Mandatory Minimum Prison Sentences

Section 7 expands the mandatory minimum prison sentence of five years for burglary in the first degree to include any such offenses that involve the actual or attempted infliction of bodily injury on anyone.

In FY 07 there were approximately 30 individuals sentenced with burglary offenses who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 4.38 years⁴². Increasing the penalty and establishing a 5 year mandatory minimum (.62 years longer than the current average time served) for similar offenders in the future could cost the state an estimated \$773,760 annually, over the length of sentence⁴³.

Section 8 establishes a mandatory minimum prison sentence of five years for any person convicted of burglary in the second degree.

In FY 07 there were approximately 180 individuals sentenced with burglary offenses who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 2.08 years⁴⁴. Increasing the penalty and establishing a 5 year mandatory minimum (2.92 years longer than the current average time served) for similar offenders in the future could cost the state an estimated \$7.5 million annually, over the length of sentence⁴⁵.

Section 9 increases the mandatory minimum prison sentence (from one to five years) for any person convicted of burglary in the second degree with a firearm.

In FY 07 there was approximately 1 individual sentenced with burglary offenses who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 1.64 years⁴⁶. Increasing the penalty and establishing a 5 year mandatory minimum (3.36 years longer than the current average time served) for similar offenders in the future could cost the state an estimated \$139,776 annually, over the length of sentence⁴⁷.

⁴² Note that average time served reflect parole eligibility at 50% rather than 85%.

⁴³ 30 inmates * .62 years * \$41,600 (average cost of incarceration).

⁴⁴ Note that average time served reflect parole eligibility at 50% rather than 85%.

⁴⁵ 180 inmates * 2.92 years * \$41,600 (average cost of incarceration) / 2.92.

⁴⁶ Note that average time served reflect parole eligibility at 50% rather than 85%.

⁴⁷ 1 inmate * 3.36 years * \$41,600 (average cost of incarceration).

Parole Eligibility

Section 10 makes any person convicted of burglary in the first degree ineligible for parole release until that person has served 85% of his/her prison sentence. Increasing parole eligibility to 85% would increase the average time served, which could result in additional costs, depending on the length of sentences actually imposed beyond the mandatory minimum.

Board of Pardons and Paroles: Administration & Membership

Sections 11 and 12 move the Board of Pardons and Paroles from the Department of Correction to the Department of Public Safety. The FY 08 appropriation for the Board of Pardons and Paroles is approximately \$5.0 million. It is estimated that transferring the parole function to DPS would cost between \$5.0 and \$6.0 million (up to a \$1 million increase as a result of transfer, which would necessitate additional staffing and space).

Section 11 also increases (from thirteen to twenty) the number of members of the Board of Pardons and Paroles. In FY 07 the cost for the 13 board members was approximately \$69,100, or \$5,314 per member. Increasing the number of board members would cost approximately \$106,280⁴⁸ (an increase of \$37,180 over current costs).

Board of Pardons and Paroles: Offender Files

Section 13 prohibits the Board of Pardons and Paroles from conducting any parole hearing for a convicted offender until it possesses a complete file on the prisoner. The section specifies that a complete file must include, but is not limited to, copies of sentencing hearing transcripts and pre-sentence investigation reports. Any cost to provide documents under this section is anticipated to be less than \$50,000 annually.

Local Police Authorities

Section 15 requires a person convicted of any crime listed in Section 1 of this bill, upon release from the custody of the Commissioner of Correction, to report to the local police authority (the municipal police department or state police troop having jurisdiction for the town) in the town in which the offender resides and submit to the taking of a photograph by the police authority. This provision would result in a minimal cost to municipalities.

GPS

Section 16 requires a person convicted of any crime listed in Section 1 of this bill, who is released into the community on probation, parole or any other community release program, to be subject to electronic monitoring via the global positioning system (GPS).

Probation Impact

As of October 2, 2007, there were 8,181 offenders under probation supervision in the community who were convicted of at least one of the statutes listed in this proposal; 130 of these offenders are presently under electronic monitoring via Radio Frequency devices, which cost \$1,168 annually per offender. The annual, contractual cost to provide passive GPS monitoring is \$2,354 per client. In total, the contractual cost to the

⁴⁸ \$5,314*20

Court Support Services Division of the Judicial Department, which administers probation, is estimated to be \$19 million per year.⁴⁹ In addition, this provision could result in a cost for additional staffing to handle the workload associated with monitoring offenders via GPS.

Parole Impact

Approximately 792 additional offenders would qualify for enhanced supervision under the bill,⁵⁰ at an estimated annual contractual cost of \$1.63 million annually to supervise them.⁵¹ The Board of Pardons and Paroles is expected to implement lower caseload standards for offenders subject to GPS monitoring. As such, it would require additional parole officers at an estimated, annual cost of \$1 million, including salaries, fringe benefits and expenses.

⁴⁹ Calculated as follows: $(8,051 * \$2,354) + ((\$2,354 - \$1,168) * (130))$

⁵⁰ Currently there are 95 offenders being supervised with GPS, and an additional 80 with electronic monitoring bracelets.

⁵¹ The average daily cost for passive GPS is \$5.95 (\$4,712 total daily cost).

Proposal # 8, AA Strengthening Criminal Laws Concerning Persistent Offenders, Burglary, the Justifiable use of Deadly Force and Parole Release

“Three Strikes”

Section 1 establishes a “three strikes and you’re out” law that provides for a mandatory sentence of life imprisonment for any person who is convicted of a dangerous felony⁵² after having been twice convicted and imprisoned for committing or attempting to commit either dangerous felonies or other predicate offenses.⁵³

During calendar year 2006 an average of 189 sentenced inmates met the criteria of the bill to be eligible for a life sentence. Assuming a similar trend was to continue in the future, the 189 inmates would be eligible for a sixty-year sentence under the provisions contained within the bill.

Assuming an average length of sentence of 8 years⁵⁴, the fiscal impact of the new policy would not occur until approximately 8 years after adoption, when the original inmates incarcerated under the bill would have been eligible for release. It is anticipated that on average (after the initial 8 years) the offender population will continue to grow at a rate of 189 additional inmates per year, for 52 years, for a total of 9,828 additional inmates. Each 189 additional offenders would cost approximately \$7.9 million annually, over the increased length of sentence⁵⁵.

These costs do not include additional facility space requirements. A new 1,000 bed high security prison facility costs approximately \$110 million for construction.

An average of 189 inmates admitted to a correctional facility each year would be subject to life imprisonment under the bill. Based on this figure, it is estimated that 156 to 310 felony trials would be conducted each year under the bill.⁵⁶ In order to accommodate this

⁵² Under the bill, “dangerous felony” means: (1) murder other than a capital felony; (2) manslaughter; (3) arson; (4) kidnapping; (5) robbery in the first or second degree; (6) robbery involving an occupied motor vehicle; (7) assault constituting a felony; (8) sexual assault in the first or third degree; (9) aggravated sexual assault in the first degree; (10) sexual assault in the third degree with a firearm; (11) burglary in the first or second degree; (12) stalking in the first degree; or (13) stealing a firearm.

⁵³ Under this bill, “predicate offense” means two Class A misdemeanors or three Class B misdemeanors.

⁵⁴ Averaging the length of sentences, including misdemeanors, would not provide an accurate base for comparison. Therefore, the average length of sentence used is that of other similar offenders with multiple sentences (8 years).

⁵⁵ 189 offenders * \$41,600 (average cost of incarceration).

⁵⁶ This range assumes that 50% to 100% of the 189 additional inmates are sentenced to prison after a trial. In order to estimate the total number of trials (involving not only the 189 sentenced inmates but also any defendants found not guilty or whose cases are nolle prior to verdict), the conviction rate of Judicial District trials tried to conclusion, which is 61%, is used. The estimate of additional felony trials under the bill is thus calculated as follows: $95/0.61 = 156$; $189/0.61 = 310$. Note that the extent to which “three strikes” charges would ultimately be enforced through trial is uncertain. In practice, the use of plea bargaining could diminish the projected annual increase in the number of trials.

increase in trials and subsequent habeas motions and appeals, it is estimated that 38 positions would need to be added to the Division of Criminal Justice and Public Defender Services Commission, at a total annual state cost of \$5 million, including salaries, expenses, fringe benefits and other litigation costs. An initial cost of about \$200,000 would also be incurred to purchase necessary equipment, including automobiles. The Judicial Department could incur annual costs, estimated to be less than \$100,000, to provide services (e.g., jury fees, staff overtime, etc.) in support of the additional felony trials that are expected to take place under the bill.

Persistent Offenders

Section 3 expands the persistent dangerous felony offender statute to include burglary in the first or second degree, which subjects these offenders to enhanced criminal penalties.

It is estimated that expanding the persistent dangerous felony statute to include burglary in the first or second degree will impact less than 50 individuals per year. Data on the average time served for this category of inmates is not readily available; however, these individuals could be subject to significantly longer sentences. If all 50 individuals were to receive an increased sentence, the cost to the state would be approximately \$2.08 million annually.

Mandatory Minimum Prison Sentences

Section 4 increases the mandatory minimum prison sentence (from five to six years) for any person convicted of armed burglary in the first degree. It also establishes a mandatory minimum prison sentence of five years for any person convicted of burglary in the first degree involving the actual or attempted infliction of bodily injury on anyone.

In FY 07 there were approximately 20 individuals sentenced with burglary offenses who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 4.38 years⁵⁷. Increasing the penalty for armed burglary in the first degree, and establishing a 6 year mandatory minimum (1.62 years longer than the current average time served) for similar offenders in the future could cost the state an estimated \$832,000 annually, over the length of sentence⁵⁸.

Additionally, there were approximately 30 individuals who would be eligible for a mandatory minimum of 5 years. The average time served for this category of inmates is 4.38 years⁵⁹. Increasing the penalty for unarmed burglary in the first degree (.62 years longer than the current average time served) for similar offenders in the future could cost the state an estimated \$773,760 over the portion of the years that the offenders would be incarcerated longer.

Section 5 establishes a mandatory minimum prison sentence of two years for any person convicted of burglary in the second degree.

⁵⁷ Note that average time served reflects parole eligibility at 50% rather than 85%.

⁵⁸ 20 inmates * 1.62 years * \$41,600 (average cost of incarceration) / 1.62.

⁵⁹ Average time served for 53a-101 and 53a-101a is not broken out separately.

In FY 07 there were approximately 180 individuals sentenced with burglary offenses who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 2.08 years⁶⁰. Since the average time served is longer than the mandatory minimum, increasing the mandatory minimum will not impact the sentence length for a portion of similar offenders in the future. To the extent that certain offenders are not serving at least 2 years, it would cost the state an additional \$41,600 per year, per offender.

Section 6 increases the mandatory minimum prison sentence (from one to three years) for any person convicted of burglary in the second degree with a firearm.

In FY 07 there was only 1 individual sentenced with a burglary offense who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 1.64 years⁶¹. Increasing the penalty (1.36 years longer than the current average time served) for similar offenders in the future could cost the state an estimated \$56,576 annually, over the length of the sentence⁶².

Section 7 establishes a mandatory minimum prison sentence of one year for any person convicted of burglary in the third degree.

In FY 07 there were approximately 746 individuals sentenced with burglary offenses who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 1.2 years⁶³. Since the average time served is longer than the mandatory minimum, increasing the mandatory minimum will not impact the sentence length for a portion of similar offenders in the future. To the extent that certain offenders are not serving at least 1 year, it would cost the state an additional \$41,600 per year, per offender.

Section 8 increases the mandatory minimum prison sentence (from one to two years) for any person convicted of burglary in the third degree with a firearm.

In FY 07 there were approximately 3 individuals sentenced with burglary offenses who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 1.2 years⁶⁴. Increasing the penalty (.8 years longer than the current average time served) for similar offenders in the future could cost the state an estimated \$99,840 annually, over the length of the sentence⁶⁵.

⁶⁰ Note that average time served reflects parole eligibility at 50% rather than 85%.

⁶¹ Note that average time served reflects parole eligibility at 50% rather than 85%.

⁶² 1 inmate*1.36*\$41,600 (average cost of incarceration) / 1.36.

⁶³ Note that average time served reflects parole eligibility at 50% rather than 85%.

⁶⁴ Note that average time served reflects parole eligibility at 50% rather than 85%, and the average time served for 53a-103 and 53a-103a are not reflected separately.

⁶⁵ 1 inmate*1.36*\$41,600 (average cost of incarceration).

Parole Eligibility

Section 9 makes any person convicted of burglary in the second and third degree ineligible for parole release until that person has served 85% of his/her prison sentence. Increasing parole eligibility to 85% would increase the average time served, which could result in additional costs, depending on the length of sentences actually imposed beyond the mandatory minimum.

GPS

Section 11 requires use of the global positioning system (GPS) for any person sentenced to probation or conditional discharge for first or second degree burglary.

As of October 2, 2007, there were 392 offenders under probation supervision in the community who were convicted of either first degree (39 offenders) or second degree (353 offenders) burglary; seven of these offenders are presently under electronic monitoring via Radio Frequency devices, which cost \$1,168 annually per offender.

Each year on average, there are no offenders charged with first degree burglary and less than five offenders charged with second degree burglary who receive a sentence of conditional discharge. Assuming that these offenders are placed under supervision for the same period of time as those offenders sentenced to probation, this provision in the bill would increase by about 30 (4 sentenced offenders * 6 years supervision) the number of clients under supervision of the Court Support Services Division and subject to monitoring by GPS.

This section would extend electronic monitoring through the use of GPS devices to about 400 more offenders (approximately 390 probationers + 30 offenders under conditional discharge) under community supervision by the Court Support Services Division. The annual, contractual cost to provide passive GPS monitoring is \$2,354 per client. In total, the contractual cost is estimated to be \$941,600 per year (400 offenders * \$2,354) under the bill. This provision could also result in a cost for additional staffing to handle the workload associated with monitoring offenders via GPS.

Parole Registry

Sections 13-15 require the Department of Public Safety (DPS) to establish a registry for any person released from confinement on parole.

It is estimated that establishing a parole registry would cost between \$1.58 million and \$2.08 million. DPS would require 6 additional positions to establish and operate a registry for any person released from confinement on parole. The 6 additional positions include: 4 troopers (average salary of \$78,101⁶⁶), 1 Sergeant (average salary of \$86,331), and 1 Processing Technician (average salary of \$40,497). The total cost would be approximately \$704,000, including fringe benefits.

⁶⁶ The average trooper salary is for top-step troopers only, since those are troopers are selected for specialized units.

DPS would also require funding for other expenses, including: computers, office supplies, uniforms, transportation, and equipment. The average dollar amount for outfitting a new trooper is approximately \$56,000. It is unknown if DPS would be able to accommodate additional staff within the current facility. If additional office space was required the potential cost could be significant.

Additionally, the DPS would be responsible for purchasing a database to establish the parole registry. It is estimated that a new registry would cost \$500,000 - \$1.0 million, and up to \$100,000 annually for maintenance.

Proposal # 9, AAC the Board of Pardons and Paroles and Reentry Furloughs

Board of Pardons and Paroles: Staffing

Section 2 requires that all BPP members become full-time staff. Assuming the full-time board members were in a similar bargaining unit as Parole Officers, they would receive an annual salary of approximately \$90,671 (depending on the number of years served) plus fringe benefits (at a rate of 60.2%, or \$54,584 per board member, per year).

If all 13 members of the Board of Pardons and Paroles (BPP) were converted to full-time staff, the total cost would be approximately \$1.9 million annually.⁶⁷ Currently, the members are reimbursed \$110 per day for attending hearings (plus mileage). The FY 07 total for reimbursement was \$58,300 (for stipends) and \$10,800 (for mileage).

Board of Pardons and Paroles: Offender Files

Section 3 prohibits the Board of Pardons and Paroles from conducting any parole hearing for a convicted offender until its members have reviewed the complete file on the prisoner. The section specifies that a complete file must include, but is not limited to, copies of sentencing hearing transcripts, pre-sentence investigation reports, and criminal records. Any cost to provide documents under this section is anticipated to be less than \$50,000 annually.

Re-entry Furloughs

Section 4 restricts the use of re-entry furloughs that the Commissioner of Correction may grant. It also requires that any offender serving a split sentence (a period of incarceration followed by a period of probation) who is released on a re-entry furlough must be subject to the same conditions and level of supervision that will apply once that offender is serving a sentence of probation supervision.

It is estimated that approximately 794 offenders annually would not be released on furlough as a result of the change. By not releasing the 794 offenders (and assuming that on average each offender would be released approximately 25 days early) it is estimated that the cost to the state would be approximately \$2.26 million⁶⁸, annually.

On average there are approximately 180 offenders on furlough at one time. Approximately half of the offenders granted furloughs are serving a split sentence, which could require specific supervision of 90 offenders. The additional supervision of up to 90 offenders could result in the need for one additional Parole Officer with an average salary of approximately \$64,024 (plus fringe benefits of 60.2% or \$38,542).

⁶⁷ This does not include potential costs associated with additional space requirements or support staff.

⁶⁸ 794 offenders*25days*\$114 per day

Proposal #10, AAC Persistent Burglary Offenders

This bill establishes a persistent burglary offender law, which would subject repeat offenders to enhanced criminal penalties. Of the 980 burglary offenders sentenced in FY 07, 206 had at least two prior burglary sentences. Offenders with at least two prior burglary sentences would be eligible for an increased sentence equal to the next degree of felony. Assuming that 206 offenders in the future would be eligible for at least one additional year of incarceration, the cost to the state would be approximately \$8.6 million⁶⁹ annually.

⁶⁹ 206*\$41,600

Proposal #11, AAC Information Provided to the Board of Pardons and Paroles

The Division of Criminal Justice will incur annual costs of less than \$50,000 under the bill to provide copies of documents not previously required by law: police reports and pre-sentence investigations.

Proposal #12, AAC the Release of a Person on Parole or Other Supervised Community Release

Board of Pardons and Paroles: Offender Files

Section 1 prohibits the Board of Pardons and Paroles from conducting any parole hearing for a convicted offender until its members have reviewed the complete file on the prisoner. The section specifies that a complete file must include, but is not limited to, copies of sentencing hearing transcripts, pre-sentence investigation reports, and criminal records. Any cost to provide documents under this section is anticipated to be less than \$50,000 annually.

Psychiatric Exams for Parole Applicants

Section 2 makes certain offenders⁷⁰ ineligible for release on parole unless they have submitted to a psychiatric examination and a written report of the examining physician has been filed with, and reviewed by, the Commissioner of Correction or a panel of the Board of Pardons and Paroles.

It is estimated that psychiatric exams, costing about \$75 per exam, would need to be conducted for 3,101 offenders annually under the bill. The annual cost of this provision is \$232,575. Alternatively, if these exams aren't conducted for every offender, fewer offenders would be eligible for parole release and thus the cost of incarceration would increase.

Parole Eligibility

Section 3 makes any person convicted of burglary in the second degree ineligible for parole release until that person has served 85% of his/her prison sentence. Increasing parole eligibility to 85% would increase the average time served, which could result in additional costs, depending on the length of sentences actually imposed beyond the mandatory minimum.

⁷⁰ This provision applies to offenders convicted of the following: (1) sexual assault; (2) the illegal sale or possession of controlled substances; or (3) an offense involving the use, attempted use or threatened use of physical force against another person.

Proposal #13, AAC Nursing Staff at Correctional Facilities and Other State-Operated Institutions

Initiatives to Promote Nursing

The bill appropriates \$1.95 million in FY 09 to the Department of Public Health to:

- Implement a nursing student loan forgiveness program for registered nurses practicing in a state-operated facility for up to five years after receiving a degree (\$1.5 million);
- Establish a program to accomplish the accelerated re-licensure of nurses having expired licenses (\$250,000); and
- Develop and implement an advertising campaign to recruit nurses to work at state-operated institutions (\$200,000).

It is anticipated that the agency will incur associated administrative costs of approximately \$150,000 in FY 09. It is unclear to what extent such costs would be supported from appropriations made within the bill. Should the \$1.95 million appropriation be one-time in nature, administrative costs of approximately \$75,000 would be incurred in each of the next four fiscal years related to continued oversight of the loan forgiveness program.

This bill appropriates \$1.95 million in FY 09. The FY 09 budget is currently \$28.2 million under the statutory spending cap. This appropriation would put the budget within \$26.25 million of the spending cap limit. Exceeding the cap would require a declaration from the governor and a three-fifths vote of the legislature.

Nursing Overtime in State-Operated Facilities

Section 5 prohibits any state agency from mandating that a nurse in a state-operated institution work overtime and states that refusal by a nurse to work overtime cannot be the basis for discrimination, dismissal, discharge, penalty or adverse employment decision, unless specified conditions are met. No resulting fiscal impact is anticipated.

At present, non-managerial nurses employed by state agencies are subject to a collective bargaining agreement having provisions addressing mandatory overtime, and are thus exempt from this section's provisions, per Section 5(b)(5) of the bill.

Managerial level nurses are not covered by a similar agreement. However, they are rarely subjected to mandatory overtime, and it is further assumed that any such instance would likely be considered either a public health or institutional emergency, and thus exempted by Section 5(b)(3) or (4).

Finally, in practice state agencies do not authorize overtime work by nurses retained from contracted temporary staffing agencies.

Special Overtime Staffing Program in DOC

Section 7 requires the Department of Correction to establish a special overtime staffing program for nurses and mental health staff to reduce the use of mandatory overtime. The information required to complete this analysis is not readily available at this time.

Proposal #14, AAC the Justifiable Use of Deadly Force in Defense of Premises

The bill expands the justifiable use of physical force by a person in possession or control of a premise to include the prevention or termination of the unlawful removal of another person against his or her will from such person's dwelling or occupied vehicle. The bill makes immune from civil liability any person who uses deadly physical force that is justified under this section of the statute. These provisions have no fiscal impact.

Appendix

SHIELD Requirement	Included in OBTS ?
internet based,	Yes
integrated with: state agencies, local police, and	Yes, by having security based access
community providers.	No
accessible to the public w/controls	No. OBTS includes a web-based interface but users must have secure, approved devices and must be security certified
Complete biographical info. and vital statistics on offenders and	OBTS contains age, race, gender, fingerprint status, and residence information for each arrest.
former living offenders	OBTS does not include information on offenders after they are released from state custody or supervision. Such information, however, is maintained by OBTS.
tracking info. on offenders from investigation through release, and seamless integration with electronic monitoring, offender registries and GPSs, global positioning systems (GPS) and any offender registries.	OBTS does not include investigation, or incident based information. Data on offenders begins when a Uniform Arrest Report or a Misdemeanor Summons is prepared and entered in the system (which starts the adjudication process). It includes information up to the point of release from state custody or supervision (end of sentence) but not beyond. It does not include electronic monitoring information. It is integrated with the protective order registry. It is not integrated with the sex offender registry.
central, integrated electronic repository of criminal justice records and documents	Yes, OBTS receives selected data ^[1] from the independently operating agency information systems (legacy systems) and stores/maintains it in a data repository.
Access to all: state and local police reports,	No, OBTS only includes information entered from uniform arrest reports and misdemeanor summons which is the culmination of the investigation process.
presentence investigations and reports,	No ^[2]
psychological and medical reports,	No
criminal records,	Yes
incarceration and parole records,	Yes
and court records	Yes
and transcripts	No
Scanning and processing facilities to ensure that such records and documents are integrated into the system and updated immediately	No. OBTS does not include any imaging or scanning technology. This would be a significant cost item.
Analytical tools: case assessment, sentencing, plea bargain,	Minimal at present ^[3]

^[1] associated with 61 different offender events

^[2] Note: separately, the Judicial Branch has recently implemented a process in a web based environment for access to presentence investigation reports through the Department of Correction.

^[3] OBTS is to contain an ad hoc reporting database that would allow the user to pull and print information on a range of user selected information and variables. It does not contain other analytical tools.

pardon, parole, probation and release decisions; forecasting recidivism and future offenses for each offender cross-department	
communication, information exchange,	Yes
central note-taking and comment capabilities for each offender.	No
State-of-the-art relational database technology that is	OBTS is ORACLE-based
Completely accessible by an authorized criminal justice user via the internet;	Yes
Indexed and cross-referenced by offender name, residence, community, criminal offense and other critical data points;	Yes
Fully text searchable for all records;	Not to the extent that a search can be done across the entire data repository. OBTS can, however, search on a range of key offender records [Name and/or date of birth; Docket (court case) #; State Police Bureau of Identification #; Uniform Arrest Report #; Arresting Agency Case #; Arresting Agency; Inmate #; Court Support Services Division Client #; Case Management Information System #; Driver's License #/State ID; FBI #; Ticket (Misdemeanor Summons) #; Social Security #; Alien Registration #]
Secure and protected by high-level security and controls.	Yes