



OLR RESEARCH REPORT

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PROPOSAL 4:

AN ACT CONCERNING HOME INVASION, CAREER CRIMINALS, COMMUNITY SUPERVISION AND INFORMATION SHARING RESOURCES.

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You asked us to summarize Proposal 4: *AAC Home Invasion, Career Criminals, Community Supervision and Information Sharing Resources* for the Judiciary Committee public hearing scheduled for November 27, 2007.

SUMMARY

The bill makes a number of changes in laws relating to crime, incarceration and community supervision, and information sharing. It:

1. creates the 1st degree burglary offense of home invasion and requires convicted offenders to serve at least 85% of their sentences;
2. includes 1st degree burglary in the list of crimes that may give rise to a persistent dangerous felony offender conviction;
3. expands the 2nd degree burglary offense to include unlawful day time entries;
4. eliminates a factual finding currently required to trigger enhanced penalties under persistent offender and terrorism laws;

5. substantially increases administrative driver's license suspension periods for drivers under age 21 when evidence obtained from a hospital indicates that they were driving with elevated blood alcohol levels;
6. mandates the design and implementation of SHIELD, an electronic criminal justice information sharing system;
7. requires judges to state reasons for imposing conditions on arrestees when they release them from custody;
8. authorizes \$260 million in bonds for a new 1,000 bed medium security prison and 1,200 bed medical and mental health facility for offenders;
9. requires DOC to establish a voluntary overtime program for nurses and mental health workers and to fill all vacant mental health positions;
10. allows DOC, CSSD, and the Board of Pardons and Paroles to seek early community release for nonviolent offenders;
11. directs the Board of Pardons and Paroles to hire at least one forensic psychologist to assist the board in making parole release decisions;
12. requires the Department of Correction (DOC) and Judicial Branch's Court Support Services Division (CSSD) each to contract for 100 new beds in staff secure residential sex offender treatment facilities;
13. appropriates \$1,775,000 for prisoner reentry services in Bridgeport, Hartford, and New Haven;
14. requires Internet posting of information about outstanding arrest warrants for probation violators and a feasibility study on posting information about all parolees and probationers online;
15. directs the Judicial Branch to hire 25 more probation officers to execute arrest warrants on probation violators;
16. increases access to victim advocates in courthouses and for victims making statements at parole board hearings; and

17. requires a needs assessment of global positioning system (GPS) monitoring for offenders on supervised release.

The bill is effective upon passage, except the home invasion and 2nd degree burglary provisions are effective January 1, 2008.

But, for the bill's provisions to go into effect on specified dates, the governor and legislature must first follow constitutional procedures for exceeding the state constitution's spending cap. Under the bill, (1) the governor must declare an emergency or the existence of extraordinary circumstances and (2) three-fifths of the members of each chamber must vote to exceed the spending cap and authorize expenditures required to implement the bill.

§§ 1, 2, 4, & 5—BURGLARY OFFENSES

Home Invasion

The bill makes home invasion a form of 1st degree burglary, punishable by imprisonment for at least 5 and up to 20 years, a fine of up to \$15,000, or both. A person commits this crime by entering a dwelling:

1. while a person other than a criminal participant is present;
2. at a time when the dwelling is not open to the public, and without permission or the right to do so; and
3. intending to commit a crime inside.

By law, a dwelling is a building that someone usually occupies at night.

This offense is currently a form of 2nd degree burglary, punishable by imprisonment for up to 10 years, a fine of up to \$10,000, or both.

Parole Eligibility. The bill requires people convicted of committing home invasions to serve at least 85% of their prison sentences before they can qualify for parole consideration. The 85% rule already applies to burglaries and other non-capital offenses where the actor used, or attempted or threatened to use physical force against another person (CGS § 54-125a). Currently, people convicted of committing nonviolent burglaries in occupied dwellings may be considered for parole release after serving 50% of their sentences.

Consideration under Persistent Dangerous Felony Offender Law

The bill also adds 1st degree burglary, including home invasion, to the list of felonies that can form the basis for a finding of persistent dangerous felony offender status, thus increasing the number of repeat offenders who may be subject to enhanced periods of jail and community supervision. By law, persistent dangerous felony offenders are those convicted of specified felonies with prior convictions for specified felonies.

Table 1 compares the persistent dangerous felony offender classification under current law and the bill.

Table 1: Persistent Dangerous Felony Offender
(proposed changes in bold italics)

<i>Current Conviction (§53a-40(a)(1))</i>		
Manslaughter	Arson	Kidnapping
1 st or 2 nd degree robbery	1 st degree assault	<i>1st degree burglary, including home invasion</i>
<i>Prior Conviction (Sentenced to at Least 1 Yr.)</i>		
Murder	Manslaughter	Arson
Kidnapping	1 st or 2 nd degree robbery	1 st degree assault
1 st degree sexual assault, including aggravated	3 rd degree sexual assault, including with a firearm	<i>1st degree burglary, including home invasion</i>
Attempts to commit any of the above crimes and convictions under predecessor statutes or for crimes under laws of other states that have substantially the same essential elements		
OR		
<i>Current Conviction (§53(a)(40)(a)(2))</i>		
1 st degree sexual assault, including aggravated	3 rd degree sexual assault, including with firearm	
<i>Prior Conviction (Sentenced to at Least 1 Yr.)</i>		
Murder	Manslaughter	Arson
Kidnapping	1 st or 2 nd degree robbery	1 st degree assault
	<i>1st degree burglary, including home invasion</i>	
Attempts to commit any of the above crimes and convictions under predecessor statutes or for crimes under laws of other states that have substantially the same essential elements		
<i>Sentence Enhancement</i>		
Current conviction is strike 2: Up to 40 yrs.		
Current conviction is strike 3: Up to life		

Second Degree Burglary

Currently, a person commits 2nd degree burglary when he or she enters or remains unlawfully in a dwelling at night with the intent to commit a crime inside. The bill expands the crime to include offenses committed during the day.

§§ 5 – 9—ENHANCED PENALTIES FOR REPEAT OFFENDERS AND TERRORISTS

Currently, to obtain a conviction under the persistent offender and terrorism laws, the state must prove that a person awaiting sentencing for a covered crime has (1) the requisite number of prior convictions and (2) a history and character that, considered along with the nature and circumstances of his or her criminal conduct, indicate that extended incarceration (and, in some cases, extended post-release supervision) will best serve the public interest.

The bill eliminates the second element of proof. As under existing law, the court must impose the enhanced penalties on those convicted as:

1. persistent dangerous (a) felony or (b) sexual offenders;
2. persistent offenders of crimes involving (a) bigotry or bias or (b) assault, stalking, trespass, threatening, harassment, or criminal violations of protective or restraining orders; and
3. terrorists.

The court may impose the enhanced penalties on those convicted as persistent (1) serious felony or sexual offenders, (2) larceny or felony offenders, and (3) operating under the influence felony offenders.

§ 28—ADMINISTRATIVE DRIVER'S LICENSE SUSPENSIONS

When evidence lawfully obtained from a hospital indicates that a driver involved in an accident had a blood alcohol level exceeding legal limits (.08% or more for adults and .02% or more for those under age 21), the law permits the Department of Motor Vehicles commissioner to administratively suspend his or her driver's license. The suspension period is currently 90 days for a first offense and up to one year for second and subsequent offenses.

The bill, instead, imposes the same suspension periods as are applicable to cases in which a driver's breath test indicates a blood alcohol level over the legal limit. The change will substantially increase license suspension periods for drivers under age 21. For older drivers, suspension periods will increase in some situations and decrease in others. The bill does not alter the 90-day suspension period for first-time-offending adults with elevated blood alcohol levels of less than .16%.

Table 1 compares suspension periods under current law and the bill.

Table 1: Administrative Per Se License Suspension Periods:—Test Results Obtained from Hospital

<i>Per Se Offense</i>	<i>First Offense</i>	<i>Second Offense</i>	<i>Third or Subsequent Offense</i>
BAC at least .08% but less than .16%	Current: 90 days Bill: 90 days	Current: up to 1 yr. Bill: 9 mos.	Current: up to 1 yr. Bill: 2 yrs.
BAC of .16% or more	Current: 90 days Bill: 120 days	Current: up to 1 yr. Bill: 10 mos.	Current: up to 1 yr. Bill: 2 yrs., 6 mos.
BAC of .02% or more (driver is under 21)	Current: 90 days Bill: 180 days	Current: up to 1 yr. Bill: 18 mos.	Current: up to 1 yr. Bill: 4 yrs.

§§ 12—SHIELD CRIMINAL JUSTICE INFORMATION SYSTEM

The bill directs the Office of Policy and Management (OPM) to design and implement SHIELD, a comprehensive, statewide information technology system. Its purpose is to facilitate immediate, seamless, and comprehensive information sharing among all of the following:

1. state agencies, departments, and boards and commissions that have cognizance over law enforcement matters;
2. local police departments; and
3. law enforcement officials.

System Requirements

SHIELD must include a centralized tracking and information database, electronic documentary repository, and analytical tools. They must be developed with state-of-the-art technology.

Tracking and Information Database. The central, integrated tracking and information database must provide:

1. complete biographical information and vital statistics for all living offenders and former offenders; and
2. tracking information for all offenders in the criminal justice system, from investigation through incarceration and release, and seamless integration with electronic monitoring systems, global positioning systems, and offender registries.

Electronic Records Repository. The central, integrated electronic repository of criminal justice records and documents must provide access to:

1. state and local police reports, presentence investigations and reports, medical reports, criminal records, incarceration and parole records, and court records and transcripts, whether the records and documents normally exist in electronic or hard copy form; and
2. scanning and processing facilities to ensure that records and documents are integrated into the system and updated immediately.

Centralized Analytical Tools. The centralized, analytical tools must be bundled together in a custom-designed enterprise system that includes:

1. tools that empower and enhance criminal case assessment, sentencing, and plea bargain analysis and pardon, parole, probation and release decisions;
2. tools that empower and enhance forecasting concerning recidivism and future offenses for each individual offender; and
3. collaborative functionality that enables seamless cross-department communication, information exchange, central note-taking, and comment capabilities for each offender.

State-of-the-art Technology. The bill directs that SHIELD be developed with state-of-the-art relational database technology and other appropriate software applications. The system must be:

1. completely Internet-accessible by all authorized criminal justice officials;

2. fully integrated with information systems and database applications used by state and local police and law enforcement departments; the Office of the Chief State's Attorney; Judicial, Correction, and Public Safety departments; Board of Pardons and Paroles; and community-based program and service contractors;
3. indexed and cross-referenced by offender name, residence, community, criminal offense, and any other data points necessary for the effective administration of the state's criminal justice system;
4. fully text searchable;
5. secure and protected by high-level security and controls;
6. accessible to the public, subject to appropriate privacy protections and controls; and
7. monitored and administered by the Department of Information Technology.

Private, third-party vendors may provide and service the system's major software and hardware.

Criminal Justice Information System Commission

The bill establishes the 11-member Criminal Justice Information System Commission which has approval authority over the new system. Commission members are the:

1. OPM secretary;
2. Judiciary Committee chairpersons, or their designees;
3. chief state's attorney;
4. Correction, Public Safety, Mental Health and Addiction Services; and Children and Families commissioners;
5. Board of Pardons and Paroles chairperson;
6. Information Technology Department's chief information officer; and
7. municipal police department chief appointed by the Connecticut Police Chiefs Association.

Commission Responsibilities. The commission must submit biannual status reports to the Judiciary and Appropriations committees beginning July 1, 2008. In conjunction with the January reports, the commission must make a presentation to the committees during the ensuing regular session. The presentation must cover the status of the design and implementation of SHIELD and a specific itemization of any additional resources that are needed.

§ 10—COURT FINDINGS RELATED TO RELEASE CONDITIONS

When a person is arrested for a crime for which bail release is available, the law specifies factors that judges may take into account in determining what conditions of release will reasonably assure (1) the person's appearance in court and (2) that the safety of any other person will not be endangered. The factors are:

1. the nature and circumstances of the offense;
2. the arrestee's criminal history, record of appearing in court after being released on bail, family and community ties, employment record, and financial resources, character, and mental condition;
3. the number and seriousness of pending charges, the weight of the evidence against the arrestee, and whether he or she has previously been convicted of similar offenses while released on bond;
4. the arrestee's history of violence and, based on the arrestee's expressed intention, the likelihood that he or she will commit another crime while released.

The bill requires the court to state for the record the factors it considered at the time it imposes conditions of release. It must also state any findings about the danger, if any, that the arrestee might pose to the safety of any other person when this consideration caused it to impose specific conditions of release.

§ 11—EARLY RELEASE FOR NONVIOLENT OFFENDERS

The bill allows the DOC commissioner, Probations and Paroles Board chairperson, and the Judicial Branch's CSSD executive director to file court applications to review a nonviolent offender's prison sentence when the applicant believes that the prisoner could be more suitably supervised in the community. Under the bill, a nonviolent offense is one that does not involve the use, attempted use, or threatened use of

physical force against another person. When the prisoner who is the subject of the application is serving a sentence of more than three years, the bill appears to require the prosecutor's agreement.

By law, judges can, after holding hearings, reduce sentences or order prisoners to be discharged with or without community supervision. Supervision can be ordered for a period up to the maximum prison sentence that could originally have been imposed.

§§ 17 - 19—PUBLIC PROBATION AND PAROLE INFORMATION

The bill directs the Judicial Branch's Court Support Services Division (CSSD) to place on the Internet (1) information concerning all outstanding arrest warrants for probation violations, including the probationer's name, address, and photograph and (2) quarterly reports that list, by issuing court, all outstanding arrest warrants for probation violations that include the probationer's name and address and the date the warrant was issued.

Feasibility Study

The bill also directs the Board of Pardons and Paroles and CSSD to jointly study the feasibility of posting information concerning probationers and parolees available on the Internet. The posted information must include the (1) person's name and address, (2) the offenses for which he or she was convicted, (3) his or her prison and probation or parole sentence length, and (4) contact information for his or her probation or parole officer. The Internet site must be searchable by name and address.

The agencies must submit findings and recommendations to the Judiciary Committee by February 6, 2008.

§§ 13 - 16—BONDING FOR NEW CORRECTIONAL FACILITIES

The bill authorizes the State Bond Commission to issue up to \$260 million in general obligation bonds for two new facilities for people in Department of Correction (DOC) custody. DOC may use up to \$110 million to plan and construct a 1,000 bed medium security correctional institution, and the Department of Public Works may use up to \$150 million to plan and construct a 1,200 bed medical and mental health facility for people under DOC custody. The bill makes both projects "correctional facility projects" which by law are generally exempt from state competitive bid procedures.

§ 26—VOLUNTARY OVERTIME PROGRAM FOR DOC NURSES AND MENTAL HEALTH WORKERS

The bill directs DOC to establish a special overtime program for nurses and mental health staff in all correctional facilities targeted at reducing mandatory overtime and improving staff recruitment and retention. The program must allow these employees to volunteer in advance for unfilled shifts that DOC would otherwise fill by requiring mandatory overtime.

§ 29—APPROPRIATIONS FOR REENTRY SERVICES

In FY 2008, the bill appropriates \$775,000 to DOC to contract with a nonprofit organization to provide reentry services in the Bridgeport area and \$1 million to the Judicial Branch for reentry services in the Hartford and New Haven areas. By law, reentry services are intended to assist offenders transition from prison to community life and reduce their chances of reoffending. They include education and job training, mental health and substance abuse treatment, and supported housing.

§§ 21 - 22—VICTIM ADVOCATES

The bill directs the Judicial Branch to ensure that there is a domestic violence victim advocate available at each geographical area and judicial district courthouse. These advocates assist domestic violence victims at court proceedings.

The bill also directs the Office of Victim Services to assign two full-time victim advocates to provide assistance to victims who appear before Board of Pardons and Paroles panels or submit written statements to them.

§ 18—ELECTRONIC MONITORING NEEDS STUDY

The bill requires DOC, CSSD and the Board of Pardons and Paroles to determine how many people released into the community on probation, parole, or supervised release should be subject to global positioning system (GPS) monitoring because of the public safety risk they present. The agencies must also determine what additional resources are needed to ensure that the monitoring continues as long as an offender remains under community supervision.

The agencies must submit their findings and recommendations to the Judiciary Committee by February 6, 2008.

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