



House of Representatives

General Assembly

File No. 195

February Session, 2000

Substitute House Bill No. 5132

House of Representatives, March 22, 2000

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

An Act Concerning Disclosure Of Information.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 54-91a of the general statutes is repealed and the
2 following is substituted in lieu thereof:

3 (a) No defendant convicted of a crime, other than a capital felony,
4 the punishment for which may include imprisonment for more than
5 one year, may be sentenced, or [his] the defendant's case otherwise
6 disposed of, until a written report of investigation by a probation
7 officer has been presented to and considered by the court, if [(1)] the
8 defendant is so convicted for the first time in this state; [or (2) his
9 record, as shown by the prosecuting official, discloses a conviction
10 obtained prior to five years from the finding of guilty in the present
11 prosecution;] but any court may, in its discretion, order a presentence
12 investigation for a defendant convicted of any crime or offense other
13 than a capital felony.

14 (b) A defendant who is convicted of a crime and is not eligible for
15 sentence review pursuant to section 51-195 may, with the consent of
16 the sentencing judge and the prosecuting official, waive the
17 presentence investigation.

18 (c) Whenever an investigation is required, the probation officer shall
19 promptly inquire into the circumstances of the offense, the attitude of
20 the complainant or victim, or of the immediate family where possible
21 in cases of homicide, and the criminal record, social history and
22 present condition of the defendant. Such investigation shall include an
23 inquiry into any damages suffered by the victim, including medical
24 expenses, loss of earnings and property loss. All local and state police
25 agencies shall furnish to the probation officer such criminal records as
26 the probation officer may request. When in the opinion of the court or
27 the investigating authority it is desirable, such investigation shall
28 include a physical and mental examination of the defendant. If the
29 defendant is committed to any institution, the investigating agency
30 shall send the reports of such investigation to the institution at the time
31 of commitment. Such investigation shall include an inquiry into
32 whether the Department of Correction recommends that the defendant
33 participate in a special alternative incarceration program in accordance
34 with section 53a-39b.

35 (d) Any information contained in the files or report of an
36 investigation pursuant to this section shall be available to the Office of
37 the Bail Commission for the purpose of performing the duties
38 contained in section 54-63d and to the Department of Mental Health
39 and Addiction Services for purposes of diagnosis and treatment.

40 Sec. 2. Subsection (a) of section 54-142m of the general statutes is
41 repealed and the following is substituted in lieu thereof:

42 (a) A criminal justice agency holding nonconviction information
43 may disclose it to persons or agencies not otherwise authorized (1) for
44 the purposes of research, evaluation or statistical analysis or (2) if there

45 is a specific agreement with a criminal justice agency to provide
46 services required for the administration of criminal justice pursuant to
47 such agreement. The judicial branch may disclose nonconviction
48 information to a state agency pursuant to an agreement to provide
49 services related to the collection of moneys due. Any such disclosure of
50 information shall be limited to that information necessary for the
51 collection of moneys due. Pursuant to an agreement, the judicial
52 branch may disclose nonconviction information to the Department of
53 Mental Health and Addiction Services for the administration of court-
54 ordered evaluations and the provision of programs and services to
55 persons with psychiatric disabilities and substance abuse treatment
56 needs.

JUD Committee Vote: Yea 39 Nay 0 JFS

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Savings

Affected Agencies: Judicial Department, Departments of Corrections and Mental Health and Addiction Services

Municipal Impact: None

Explanation

State Impact:

The bill would result in savings to the Judicial Department by reducing the number of pre-sentence investigations that adult probation officers have to conduct. Currently, the agency conducts about 3,100 pre-sentence investigations per year. The number of these investigations that relate to cases involving felony offenders whose last conviction was more than five years before the present conviction is not available. Any savings in time and effort of probation officers would be redistributed to other cases.

This bill also allows the Department of Corrections and the Judicial Department to disclose certain information to the Department of Mental Health and Addiction Services. This information is to be only made available for the purposes of evaluation, diagnosis and treatment. This change is not expected to result in a fiscal impact to any of these agencies.

OLR Bill Analysis

sHB 5132

AN ACT CONCERNING DISCLOSURE OF INFORMATION

SUMMARY:

This bill gives the Department of Mental Health and Addiction Services (DMHAS) limited access to the Office of Adult Probation's (OAP) presentence investigation reports and related files. DMHAS can use the information for diagnosis and treatment.

It eliminates one of the two situations under which OAP must complete a presentence investigation report. Under the bill, OAP does not have to complete reports for felony offenders whose last convictions were more than five years before the present convictions. OAP must continue to complete a report for first-time felony offenders. As always, courts may order a presentence investigation for any defendant accused of any crime other than a capital felony.

The bill permits the Judicial Department to honor an agreement requiring disclosure of nonconviction information to DMHAS for (1) court-ordered evaluations and (2) programs and services to people with psychiatric disabilities and substance abuse treatment needs.

EFFECTIVE DATE: October 1, 2000

BACKGROUND

PRESENTENCE INVESTIGATION REPORTS

The OAP presents the presentence investigation report to the court prior to sentencing. The report includes information on the circumstances of the offense; the victim's attitude; and the defendant's criminal record, social history, and present condition.

Nonconviction Information

“Nonconviction information” means erased criminal records, youthful offender status information, and continuances that are more than 13 months old. It does not mean conviction or current offender information.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 39 Nay 0