



Senate

File No. 695

General Assembly

February Session, 2000

(Reprint of File No. 172)

Substitute Senate Bill No. 475
As Amended by House Amendment
Schedules "A", "C" and "D"

Approved by the Legislative Commissioner
April 29, 2000

An Act Concerning Escape From Custody.

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

1 Section 1. Section 17a-8a of the general statutes is repealed and the
2 following is substituted in lieu thereof:

3 The Commissioner of Children and Families [, at his discretion,]
4 may authorize leave for a child convicted as delinquent committed to
5 the Department of Children and Families and assigned to a state
6 facility or private residential program, provided there is a reasonable
7 belief, based on the totality of the information in the possession of the
8 commissioner, that such child will honor the commissioner's trust and
9 is eligible for leave under standards adopted pursuant to 17a-7a. If any
10 such child who is granted leave under this section fails to return to
11 such facility or program, [the] such child shall be guilty of escape from
12 custody pursuant to section 53a-171, as amended by this act. The
13 superintendent or director shall disclose any records created or
14 obtained by the facility or program regarding such child [to the
15 appropriate law enforcement agency] and necessary to facilitate the

16 apprehension and the return of the child to the custody of the
17 commissioner.

18 Sec. 2. Section 53a-171 of the general statutes is repealed and the
19 following is substituted in lieu thereof:

20 (a) A person is guilty of escape from custody if [he] such person (1)
21 escapes from custody, or (2) has been convicted as delinquent, has
22 been committed to the Department of Children and Families, and (A)
23 fails to return from a leave authorized under section 17a-8a, as
24 amended by this act, or (B) escapes from a state or private facility or
25 institution in which such person has been assigned or placed by the
26 Commissioner of Children and Families.

27 (b) If a person has been arrested for, charged with or convicted of a
28 felony, escape from such custody is a class C felony, otherwise, escape
29 from custody is a class A misdemeanor.

30 Sec. 3. Section 54-76l of the general statutes, as amended by section
31 17 of public act 99-215, is repealed and the following is substituted in
32 lieu thereof:

33 (a) The records of any youth adjudged a youthful offender,
34 including fingerprints, photographs and physical descriptions, shall be
35 confidential and shall not be open to public inspection or be disclosed
36 except as provided in this section, but such fingerprints, photographs
37 and physical descriptions submitted to the State Police Bureau of
38 Identification of the Division of State Police within the Department of
39 Public Safety at the time of the arrest of a person subsequently
40 adjudged a youthful offender shall be retained as confidential matter
41 in the files of such bureau, and be opened to inspection only as
42 hereinafter provided. Other data ordinarily received by such bureau,
43 with regard to persons arrested for a crime, shall be forwarded to the
44 bureau to be filed, in addition to the fingerprints, photographs and
45 physical descriptions as mentioned above, and be retained in the
46 division as confidential information, open to inspection only as
47 hereinafter provided.

48 (b) The records of any youth adjudged a youthful offender on or
49 after October 1, 1995, or any part thereof, may be disclosed to and
50 between individuals and agencies, and employees of such agencies,
51 providing services directly to the youth including law enforcement
52 officials, state and federal prosecutorial officials, school officials in
53 accordance with section 10-233h, court officials, the Division of
54 Criminal Justice, the Office of Adult Probation, the Office of the Bail
55 Commission, the Board of Parole and an advocate appointed pursuant
56 to section 54-221 for a victim of a crime committed by the youth. Such
57 records shall also be available to the attorney representing the youth,
58 in any proceedings in which such records are relevant, to the parents
59 or guardian of such youth, until such time as the youth reaches the age
60 of majority or is emancipated, and to the youth upon his emancipation
61 or attainment of the age of majority, provided proof of the identity of
62 such youth is submitted in accordance with guidelines prescribed by
63 the Chief Court Administrator. Such records disclosed pursuant to this
64 subsection shall not be further disclosed.

65 (c) The records of any youth adjudged a youthful offender, or any
66 part thereof, may be disclosed upon order of the court to any person
67 who has a legitimate interest in the information and is identified in
68 such order. Records or information disclosed pursuant to this
69 subsection shall not be further disclosed.

70 (d) The records of any youth adjudged a youthful offender, or any
71 part thereof, shall be available to the victim of the crime committed by
72 such youth to the same extent as the record of the case of a defendant
73 in a criminal proceeding in the regular criminal docket of the Superior
74 Court is available to a victim of the crime committed by such
75 defendant. The court shall designate an official from whom such
76 victim may request such information. Information disclosed pursuant
77 to this subsection shall not be further disclosed.

78 (e) Any reports and files held by the Office of Adult Probation
79 regarding any youth adjudged a youthful offender may be disclosed to
80 the Office of the Bail Commission for the purpose of performing the

81 duties contained in section 54-63b.

82 (f) Information concerning any youth adjudged a youthful offender
83 who has escaped from an institution to which such youth has been
84 committed or for whom an arrest warrant has been issued may be
85 disclosed by law enforcement officials.

86 Sec. 4. Section 54-2a of the general statutes is repealed and the
87 following is substituted in lieu thereof:

88 (a) In all criminal cases the Superior Court, or any judge thereof,
89 may issue (1) bench warrants of arrest upon application by a
90 prosecutorial official if the court or judge determines that the affidavit
91 accompanying the application shows that there is probable cause to
92 believe that an offense has been committed and that the person
93 complained against committed it, (2) subpoenas for witnesses, (3)
94 capias for witnesses and for defendants who violate an order of the
95 court regarding any court appearance, and (4) all other criminal
96 process; and may administer justice in all criminal matters.

97 (b) The court or judge issuing a bench warrant for the arrest of the
98 person or persons complained against [] shall, in cases punishable by
99 death or life imprisonment, set the conditions of release or indicate that
100 the person or persons named in the warrant shall not be entitled to bail
101 and may, in all other cases, set the conditions of release. The conditions
102 of release, if included in the warrant, shall fix the first of the following
103 conditions [] which the court or judge finds necessary to assure such
104 person's appearance in court: (1) Written promise to appear; (2)
105 execution of a bond without surety in no greater amount than
106 necessary; or (3) execution of a bond with surety in no greater amount
107 than necessary.

108 (c) In lieu of a warrant for the rearrest of any defendant who fails to
109 appear for trial at the place and time specified or on any court date
110 thereafter the court or judge may issue a capias.

111 (d) All process issued by said court or any judge thereof shall be

112 served by any proper officer, or an indifferent person when specially
113 directed to do so, and shall be obeyed by any and all persons and
114 officers to whom the same is directed or whom it may concern.

115 (e) Whenever a rearrest warrant is issued under this section, the
116 court or judge may cause such warrant to be entered into a central
117 computer system. Existence of the warrant in the computer system
118 shall constitute prima facie evidence of the issuance of the warrant.
119 Any person named in the warrant may be arrested based on the
120 existence of the warrant in the computer system and shall, upon any
121 such arrest, be given a copy of the warrant.

122 Sec. 5. Subsection (b) of section 54-56e of the general statutes, as
123 amended by section 3 of public act 99-148, is repealed and the
124 following is substituted in lieu thereof:

125 (b) The court may, in its discretion, invoke such program on motion
126 of the defendant or on motion of a state's attorney or prosecuting
127 attorney with respect to a defendant (1) who, the court believes, will
128 probably not offend in the future, (2) who has no previous record of
129 conviction of a crime or of a violation of section 14-196, subsection (c)
130 of section 14-215, section 14-222a, subsection (a) of section 14-224 or
131 section 14-227a, (3) who has not [previously] been adjudged a youthful
132 offender [on or after October 1, 1995.] within the preceding five years
133 under the provisions of sections 54-76b to 54-76n, inclusive, and (4)
134 who states under oath, in open court or before any person designated
135 by the clerk and duly authorized to administer oaths, under the
136 penalties of perjury that the defendant has never had such program
137 invoked in the defendant's behalf, provided the defendant shall agree
138 thereto and provided notice has been given by the defendant, on a
139 form approved by rule of court, to the victim or victims of such crime
140 or motor vehicle violation, if any, by registered or certified mail and
141 such victim or victims have an opportunity to be heard thereon. In
142 determining whether to grant an application under this section with
143 respect to a person who has been adjudged a youthful offender under
144 the provisions of sections 54-76b to 54-76n, inclusive, more than five

145 years prior to the date of such application, and notwithstanding the
146 provisions of section 54-76l, the court shall have access to the youthful
147 offender records of such person and may consider the nature and
148 circumstances of the crime with which such person was charged as a
149 youth. Any defendant who makes application for participation in such
150 program shall pay to the court an application fee of thirty-five dollars.

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: Cost, Indeterminate Savings

Affected Agencies: Department of Children and Families, Various Criminal Justice Agencies

Municipal Impact: None

Explanation

State and Municipal Impact:

Provisions contained within the bill will facilitate locating delinquent youth who have escaped from state or private residential facilities or failed to return from leave. This will result in their return to the custody of the Department of Children and Families in a more expeditious manner. It is anticipated that no fiscal impact will result from its passage.

It is uncertain whether provisions within Section 4 require the entry of information based upon the rearrest warrant or whether it requires the actual imaging of the warrant. If it is interpreted to require court clerks to just enter additional information into the court's case management computer system, additional costs for programming changes (up to \$200,000 according to the Judicial Department) would result. If the bill is interpreted to instead require the actual image of the warrant to be entered into the court's computer case management system, the cost would be significantly higher since hardware and additional storage capacity would have to be purchased.

After the information is entered or imaged, in order for it to be accessible to police departments, it must be downloaded to the police COLLECT system. Currently, the Judicial Department downloads information to the COLLECT system on a week-nightly basis. It appears that rearrest information is not part of these downloads. The COLLECT system would have to be modified to accommodate the new information. This would be implemented by the Department of Public Safety and can be handled within normal budgetary resources. Local police departments would not incur any costs for the programming changes and are not charged for their use of the COLLECT system.

Savings would result for the criminal justice system by expanding eligibility for the pretrial accelerated rehabilitation program to include those who have previously been adjudged youthful offenders under certain circumstances. This would result in reduced criminal penalties and therefore criminal justice system costs savings. There are about 8,000 cases per year referred for the pretrial accelerated rehabilitation program.

House "A" makes technical changes and has no associated fiscal impact.

House "C" requires the entering of rearrest warrants into a central computer system. It results in the indeterminate cost to the Judicial Department discussed above.

House "D" expands eligibility for the pretrial accelerated rehabilitation program. This results in savings for the criminal justice system for reasons discussed above.

OLR Amended Bill Analysis

sSB 475 (as amended by House "A", "C", and "D")*

AN ACT CONCERNING ESCAPE FROM CUSTODY.**SUMMARY:**

This bill makes certain delinquent juveniles guilty of the crime of escape from custody if they fail to return from an authorized leave or escape from a facility where they have been placed by the Department of Children and Families (DCF). It also allows release of any information necessary to facilitate their return to custody and allows it to be released to more than just law enforcement agencies.

The bill allows law enforcement agencies to release information about youthful offenders who have escaped from the institution to which they have been committed or for whom an arrest warrant has been issued. Such information can already be released about juveniles under age 16 who escape from a detention center or facility where they have been placed.

The bill allows a judge to enter a rearrest warrant in a central computer system, and the person named in the warrant may be arrested based on the warrant's existence in the system.

Finally, the bill allows the court to grant accelerated rehabilitation to someone previously adjudged a youthful offender, provided at least five years have passed since that occurred.

*House Amendment "A" clarifies that the provision concerning escape from custody applies to children committed to DCF and placed by the DCF commissioner in a state or private facility.

*House Amendment "C" adds the provision on computerized rearrest warrants.

*House Amendment "D" adds the provision on accelerated rehabilitation.

EFFECTIVE DATE: October 1, 2000

ESCAPE FROM CUSTODY

The bill makes a convicted delinquent who has been committed to DCF guilty of escape from custody if he (1) fails to return from a leave authorized by the DCF commissioner or (2) escapes from a public or private facility where DCF placed him.

Escape from custody is a class C felony if the escapee's underlying offense is a felony and a class A misdemeanor otherwise. The penalty for a class C felony is imprisonment for one to 10 years, a fine of up to \$10,000, or both. The penalty for a class A misdemeanor is imprisonment for up to one year, a fine of up to \$2,000, or both.

RELEASE OF INFORMATION CONCERNING JUVENILE ESCAPEES

Currently, the superintendent or director of a juvenile institution or facility must disclose its records to appropriate law enforcement agencies when a child fails to return from an authorized leave. Under the bill, only information necessary to facilitate the child's return can be released, instead of all records created or obtained by the agency. But the information can be disclosed to anyone, not just law enforcement agencies.

PAPERLESS REARREST WARRENTS

The bill allows the court to have a rearrest warrant entered into a central computer system, and its existence in the system constitutes prima facie evidence of the issuance of the warrant. Anyone named in the warrant may be rearrested based on the existence of the warrant in the system. Anyone arrested upon such a warrant must be given a copy of it.

ACCELERATED REHABILITATION AND YOUTHFUL OFFENDER STATUS

Under current law, a person previously adjudged a youthful offender is ineligible for accelerated rehabilitation. This bill removes this restriction for people who were not adjudged a youthful offender

within the preceding five years. In determining whether to grant accelerated rehabilitation to someone previously adjudged a youthful offender, the court must have access to the person's youthful offender records and may consider the nature and circumstances of the crime the person was charged with as a youth.

BACKGROUND

Youthful Offenders

This diversion program allows the court to erase the criminal records of first-time youthful offenders (16-and 17-year-olds) who successfully complete a court-imposed sentence. A youth is ineligible if he (1) committed a class A felony or serious sexual assault crime, (2) was previously convicted of a felony, (3) was previously adjudged a serious juvenile offender or serious juvenile repeat offender, or (4) was previously granted accelerated rehabilitation.

Accelerated Rehabilitation

The accelerated pretrial rehabilitation program is for people accused of nonserious crimes or motor vehicle violations and who have no prior convictions or specified motor vehicle violations, have not previously been adjudged a youthful offender, and who the court believes are unlikely to offend again. The program allows them to waive trial and be placed on probation for up to two years and then to have all charges dismissed upon successful completion of probation.

Legislative History

On March 29, the Senate referred the bill to the Human Services Committee, which favorably reported it without change on April 6.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute
Yea 39 Nay 0

Human Services Committee

Joint Favorable Report
Yea 19 Nay 0