



Senate

General Assembly

File No. 443

January Session, 2001

Substitute Senate Bill No. 1160

Senate, April 25, 2001

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING MANDATORY MINIMUM SENTENCES.

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

1 Section 1. (NEW) Notwithstanding any provision of the general
2 statutes, when sentencing a person convicted of a violation of any
3 provision of chapter 420b of the general statutes for which there is a
4 mandatory minimum sentence, which did not involve the use,
5 attempted use or threatened use of physical force against another
6 person or result in the physical injury or serious physical injury of
7 another person, and in the commission of which such person neither
8 was armed with nor threatened the use of or displayed or represented
9 by word or conduct that such person possessed any firearm, deadly
10 weapon or dangerous instrument, as those terms are defined in section
11 53a-3 of the general statutes, the court may, upon a showing of good
12 cause by the defendant, depart from the prescribed mandatory
13 minimum sentence, provided the court, at the time of sentencing,
14 states in open court the reasons for imposing the particular sentence
15 and the specific reason for imposing a sentence that departs from the

16 prescribed mandatory minimum sentence.

17 Sec. 2. This act shall take effect July 1, 2001.

JUD *Joint Favorable Subst.*

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:** Significant Savings¹
- Affected Agencies:** Various Criminal Justice Agencies
- Municipal Impact:** None

Explanation

State Impact:

The bill would result in significant savings to criminal justice agencies, primarily the Department of Correction, depending on the extent to which judges would allow drug offenses under chapter 420b of the general statutes to depart from the mandatory minimums under current law. During the course of the year 2000, there were about 580 people incarcerated at any given time (about half of which were incarcerated pre-trial) for drug crimes with mandatory minimums under chapter 420b. Assuming all of these individuals received the mandatory minimum sentence under the statute for which they were convicted, the estimated cost of incarcerating these individuals for the course of their mandatory minimum terms is \$88 million².

It should be noted that the rate to which a departure from the mandatory minimum sentences would occur is unknown. In addition,

¹ OFA defines significant as exceeding \$100,000.

² Based on the current average annual cost of incarceration of \$30,400, which includes fringe benefits.

it is unknown to what extent other sanctions such as probation or alternative incarceration programs would be substituted in place of incarceration. However, since these programs are less costly on average (\$800 - \$30,000 per year in cost depending on the program) than imprisonment, a net savings would result.

Background

There are six separate drug crimes under chapter 420b that carry mandatory minimum prison terms (see Table below).

Mand. Min. (yrs)	CGS #	Name
1	21a-267(c)	Possession of drug paraphernalia by non-student within 1,500 feet of a school
5 for 1st, 10 for subsequent offense	21a-278	Sale of illegal drugs
2	21a-278a(a)	Sale of illegal drugs to those under age 18
3	21a-278a(b)	Sale of illegal drugs to those under age 18 within 1,500 feet of a school, public housing project, or day care center
3	21a-278a(c)	Using those under age 18 to sell drugs
2	21a-279(d)	Possession of narcotic, hallucinogenic or controlled substances within 1,500 feet of a school

In 2000, according to court statistics, there were 6,041 offenses for the crimes affected by the bill. Almost 95% of these offenses did not result in conviction; the remaining 5% (or 303) resulted in a conviction with presumably at least the length of mandatory minimums applied to the offenders involved (see Table below).

CGS #	Incarcerated ³	# on Probation ⁴	Offenses	Convicted	Nolles
21a-267(c)	<1	4	140	3	137
21a-278	572	64	2,264	192	2,072
21a-278a(a)	-	-	-	-	-
21a-278a(b)	-	258	1,874	91	1,783
21a-278a(c)	-	-	5	-	5
21a-279(d)	7	623	1,758	17	1,741

³ These figures reflect the average number of individuals incarcerated at any point during the year 2000.

⁴ As of April, 2001.

Total	579	949	6,041	303	5,738
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OLR Bill Analysis

sSB 1160

AN ACT CONCERNING MANDATORY MINIMUM SENTENCES.**SUMMARY:**

This bill gives judges discretion to sentence some non-violent felons to less prison time than the law currently requires. It accomplishes this by allowing a sentencing judge to depart from the mandatory minimum jail term in some drug cases. He can do this when no other person was hurt during the crime and the defendant (1) did not use or attempt or threaten to use physical force; (2) was unarmed; and (3) did not use, threaten to use, or suggest that he had a deadly weapon (such as a gun or knife) or other dangerous instrument that could cause death or serious injury.

The defendant must show good cause for the departure, and the judge must state at the sentencing hearing his reasons for (1) imposing the selected sentence and (2) departing from the prescribed mandatory minimum.

EFFECTIVE DATE: July 1, 2001

COVERED CRIMES

The bill covers the following offenses:

OFFENSE	MANDATORY MINIMUM SENTENCE
Use, possession, or delivery of drug paraphernalia within 1,500 feet of a school by non-student	One year
Illegal manufacture or sale of drugs	Five years for first offense, 10 years for subsequent offenses
Sale of drugs to a minor	Two years
Sale of drugs to a minor within	Three years

1,500 feet of a school, public housing project, or day care center	
Using person under age 18 to sell drugs	Three years
Possessing narcotic, hallucinogenic, or controlled substances within 1,500 feet of a school	Two years

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 29 Nay 9