



House of Representatives

File No. 624

General Assembly

February Session, 2002

(Reprint of File No. 455)

Substitute House Bill No. 5680
As Amended by House Amendment
Schedules "A", "B", "D" and "E"

Approved by the Legislative Commissioner
May 4, 2002

**AN ACT CONCERNING PENALTIES FOR SEXUAL ASSAULT OF A
MINOR, CIVIL AND CRIMINAL STATUTES OF LIMITATIONS IN
SEXUAL ASSAULT CASES, REPORTING AND INVESTIGATION OF
CHILD ABUSE AND NEGLECT, DISCLOSURE OF COMMUNICATIONS
MADE TO A MEMBER OF THE CLERGY, DISCLOSURE OF RECORDS
OF TEACHER MISCONDUCT AND ESTABLISHMENT OF SEXUAL
OFFENDER RISK ASSESSMENT BOARDS.**

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

1 Section 1. Section 54-193a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage and*
3 *applicable to any offense committed on or after said date*):

4 Notwithstanding the provisions of section 54-193, no person may be
5 prosecuted for any offense, except a class A felony, involving sexual
6 abuse, sexual exploitation or sexual assault of a minor except within
7 [two] thirty years from the date the victim attains the age of majority
8 or within five years from the date the victim notifies any police officer
9 or state's attorney acting in [his] such police officer's or state's
10 attorney's official capacity of the commission of the offense, whichever
11 is earlier, provided [in no event shall such period of time be less than

12 five years after the commission of the offense] if the prosecution is for
13 a violation of subdivision (1) of subsection (a) of section 53a-71, as
14 amended by this act, the victim notified such police officer or state's
15 attorney not later than five years after the commission of the offense.

16 Sec. 2. Section 52-577d of the general statutes is repealed and the
17 following is substituted in lieu thereof (*Effective from passage and*
18 *applicable to any cause of action arising from an incident committed prior to,*
19 *on or after said date*):

20 Notwithstanding the provisions of section 52-577, no action to
21 recover damages for personal injury to a minor, including emotional
22 distress, caused by sexual abuse, sexual exploitation or sexual assault
23 may be brought by such person later than [seventeen] thirty years
24 from the date such person attains the age of majority.

25 Sec. 3. (NEW) (*Effective from passage and applicable to any cause of*
26 *action arising from an incident committed prior to, on or after said date*)
27 Notwithstanding the provisions of sections 52-577 and 52-577d of the
28 general statutes, as amended by this act, an action to recover damages
29 for personal injury caused by sexual assault may be brought at any
30 time after the date of the act complained of if the party legally at fault
31 for such injury has been convicted of a violation of section 53a-70 or
32 53a-70a of the general statutes.

33 Sec. 4. Section 53-21 of the general statutes is repealed and the
34 following is substituted in lieu thereof (*Effective October 1, 2002*):

35 (a) Any person who (1) wilfully or unlawfully causes or permits any
36 child under the age of sixteen years to be placed in such a situation
37 that the life or limb of such child is endangered, the health of such
38 child is likely to be injured or the morals of such child are likely to be
39 impaired, or does any act likely to impair the health or morals of any
40 such child, or (2) has contact with the intimate parts, as defined in
41 section 53a-65, of a child under the age of sixteen years or subjects a
42 child under sixteen years of age to contact with the intimate parts of
43 such person, in a sexual and indecent manner likely to impair the

44 health or morals of such child, or (3) permanently transfers the legal or
45 physical custody of a child under the age of sixteen years to another
46 person for money or other valuable consideration or acquires or
47 receives the legal or physical custody of a child under the age of
48 sixteen years from another person upon payment of money or other
49 valuable consideration to such other person or a third person, except in
50 connection with an adoption proceeding that complies with the
51 provisions of chapter 803, shall be guilty of a class C felony for a
52 violation of subdivision (1) or (3) of this subsection and a class B felony
53 for a violation of subdivision (2) of this subsection.

54 (b) The act of a parent or agent leaving an infant thirty days or
55 younger with a designated employee pursuant to section 17a-58 shall
56 not constitute a violation of this section.

57 Sec. 5. Section 53a-70 of the general statutes is repealed and the
58 following is substituted in lieu thereof (*Effective October 1, 2002*):

59 (a) A person is guilty of sexual assault in the first degree when such
60 person (1) compels another person to engage in sexual intercourse by
61 the use of force against such other person or a third person, or by the
62 threat of use of force against such other person or against a third
63 person which reasonably causes such person to fear physical injury to
64 such person or a third person, or (2) engages in sexual intercourse with
65 another person and such other person is under thirteen years of age
66 and the actor is more than two years older than such person, or (3)
67 commits sexual assault in the second degree as provided in section
68 53a-71, as amended by this act, and in the commission of such offense
69 is aided by two or more other persons actually present, or (4) engages
70 in sexual intercourse with another person and such other person is
71 mentally incapacitated to the extent that such other person is unable to
72 consent to such sexual intercourse.

73 (b) (1) [Sexual] Except as provided in subdivision (2) of this
74 subsection, sexual assault in the first degree is a class B felony for
75 which two years of the sentence imposed may not be suspended or

76 reduced by the court or, if the victim of the offense is under ten years
77 of age, for which ten years of the sentence imposed may not be
78 suspended or reduced by the court. [, and any]

79 (2) Sexual assault in the first degree is a class A felony if the offense
80 is a violation of subdivision (1) of subsection (a) of this section and the
81 victim of the offense is under sixteen years of age or the offense is a
82 violation of subdivision (2) of subsection (a) of this section. Any person
83 found guilty under said subdivision (1) or (2) shall be sentenced to a
84 term of imprisonment of which ten years of the sentence imposed may
85 not be suspended or reduced by the court if the victim is under ten
86 years of age or of which five years of the sentence imposed may not be
87 suspended or reduced by the court if the victim is under sixteen years
88 of age.

89 (3) Any person found guilty under this section shall be sentenced to
90 a term of imprisonment and a period of special parole pursuant to
91 subsection (b) of section 53a-28 which together constitute a sentence of
92 at least ten years.

93 Sec. 6. Section 53a-70a of the general statutes is repealed and the
94 following is substituted in lieu thereof (*Effective October 1, 2002*):

95 (a) A person is guilty of aggravated sexual assault in the first degree
96 when such person commits sexual assault in the first degree as
97 provided in section 53a-70, as amended by this act, and in the
98 commission of such offense (1) such person uses or is armed with and
99 threatens the use of or displays or represents by such person's words
100 or conduct that such person possesses a deadly weapon, (2) with intent
101 to disfigure the victim seriously and permanently, or to destroy,
102 amputate or disable permanently a member or organ of the victim's
103 body, such person causes such injury to such victim, (3) under
104 circumstances evincing an extreme indifference to human life such
105 person recklessly engages in conduct which creates a risk of death to
106 the victim, and thereby causes serious physical injury to such victim,
107 or (4) such person is aided by two or more other persons actually

108 present. No person shall be convicted of sexual assault in the first
109 degree and aggravated sexual assault in the first degree upon the same
110 transaction but such person may be charged and prosecuted for both
111 such offenses upon the same information.

112 (b) Aggravated sexual assault in the first degree is a class B felony
113 or, if the victim of the offense is under sixteen years of age, a class A
114 felony. [and any] Any person found guilty under this section shall be
115 sentenced to a term of imprisonment of which five years of the
116 sentence imposed may not be suspended or reduced by the court,
117 [and] except that, if such person committed sexual assault in the first
118 degree by violating subdivision (1) of subsection (a) of section 53a-70,
119 as amended by this act, and the victim of the offense is under sixteen
120 years of age, twenty years of the sentence imposed may not be
121 suspended or reduced by the court. Any person found guilty under
122 this section shall be sentenced to a period of special parole pursuant to
123 subsection (b) of section 53a-28 [which together constitute a sentence of
124 twenty years] of at least five years.

125 Sec. 7. Section 53a-71 of the general statutes is repealed and the
126 following is substituted in lieu thereof (*Effective October 1, 2002*):

127 (a) A person is guilty of sexual assault in the second degree when
128 such person engages in sexual intercourse with another person and: (1)
129 Such other person is thirteen years of age or older but under sixteen
130 years of age and the actor is more than two years older than such
131 person; or (2) such other person is mentally defective to the extent that
132 such other person is unable to consent to such sexual intercourse; or (3)
133 such other person is physically helpless; or (4) such other person is less
134 than eighteen years old and the actor is such person's guardian or
135 otherwise responsible for the general supervision of such person's
136 welfare; or (5) such other person is in custody of law or detained in a
137 hospital or other institution and the actor has supervisory or
138 disciplinary authority over such other person; or (6) the actor is a
139 psychotherapist and such other person is (A) a patient of the actor and
140 the sexual intercourse occurs during the psychotherapy session, (B) a

141 patient or former patient of the actor and such patient or former
142 patient is emotionally dependent upon the actor, or (C) a patient or
143 former patient of the actor and the sexual intercourse occurs by means
144 of therapeutic deception; or (7) the actor accomplishes the sexual
145 intercourse by means of false representation that the sexual intercourse
146 is for a bona fide medical purpose by a health care professional; or (8)
147 the actor is a school employee and such other person is a student
148 enrolled in a school in which the actor works or a school under the
149 jurisdiction of the local or regional board of education which employs
150 the actor.

151 (b) Sexual assault in the second degree is a class C felony [for] or, if
152 the victim of the offense is under sixteen years of age, a class B felony,
153 and any person found guilty under this section shall be sentenced to a
154 term of imprisonment of which nine months of the sentence imposed
155 may not be suspended or reduced by the court.

156 Sec. 8. Section 53a-72a of the general statutes is repealed and the
157 following is substituted in lieu thereof (*Effective October 1, 2002*):

158 (a) A person is guilty of sexual assault in the third degree when
159 such person (1) compels another person to submit to sexual contact (A)
160 by the use of force against such other person or a third person, or (B)
161 by the threat of use of force against such other person or against a third
162 person, which reasonably causes such other person to fear physical
163 injury to himself or herself or a third person, or (2) engages in sexual
164 intercourse with another person whom the actor knows to be related to
165 him or her within any of the degrees of kindred specified in section
166 46b-21.

167 (b) Sexual assault in the third degree is a class D felony or, if the
168 victim of the offense is under sixteen years of age, a class C felony.

169 Sec. 9. Section 53a-72b of the general statutes is repealed and the
170 following is substituted in lieu thereof (*Effective October 1, 2002*):

171 (a) A person is guilty of sexual assault in the third degree with a

172 firearm when such person commits sexual assault in the third degree
173 as provided in section 53a-72a, as amended by this act, and in the
174 commission of such offense, such person uses or is armed with and
175 threatens the use of or displays or represents by such person's words
176 or conduct that such person possesses a pistol, revolver, machine gun,
177 rifle, shotgun or other firearm. No person shall be convicted of sexual
178 assault in the third degree and sexual assault in the third degree with a
179 firearm upon the same transaction but such person may be charged
180 and prosecuted for both such offenses upon the same information.

181 (b) Sexual assault in the third degree with a firearm is a class C
182 felony [for] or, if the victim of the offense is under sixteen years of age,
183 a class B felony, and any person found guilty under this section shall
184 be sentenced to a term of imprisonment of which two years of the
185 sentence imposed may not be suspended or reduced by the court [and
186 any person found guilty under this section shall be sentenced to a term
187 of imprisonment] and a period of special parole pursuant to subsection
188 (b) of section 53a-28 which together constitute a sentence of ten years.

189 Sec. 10. Section 53a-73a of the general statutes is repealed and the
190 following is substituted in lieu thereof (*Effective October 1, 2002*):

191 (a) A person is guilty of sexual assault in the fourth degree when: (1)
192 Such person intentionally subjects another person to sexual contact
193 who is (A) under fifteen years of age, or (B) mentally defective or
194 mentally incapacitated to the extent that [he] such other person is
195 unable to consent to such sexual contact, or (C) physically helpless, or
196 (D) less than eighteen years old and the actor is such other person's
197 guardian or otherwise responsible for the general supervision of such
198 other person's welfare, or (E) in custody of law or detained in a
199 hospital or other institution and the actor has supervisory or
200 disciplinary authority over such other person; or (2) such person
201 subjects another person to sexual contact without such other person's
202 consent; or (3) such person engages in sexual contact with an animal or
203 dead body; or (4) such person is a psychotherapist and subjects
204 another person to sexual contact who is (A) a patient of the actor and

205 the sexual contact occurs during the psychotherapy session, or (B) a
206 patient or former patient of the actor and such patient or former
207 patient is emotionally dependent upon the actor, or (C) a patient or
208 former patient of the actor and the sexual contact occurs by means of
209 therapeutic deception; or (5) such person subjects another person to
210 sexual contact and accomplishes the sexual contact by means of false
211 representation that the sexual contact is for a bona fide medical
212 purpose by a health care professional; or (6) such person is a school
213 employee and subjects another person to sexual contact who is a
214 student enrolled in a school in which the actor works or a school under
215 the jurisdiction of the local or regional board of education which
216 employs the actor.

217 (b) Sexual assault in the fourth degree is a class A misdemeanor or,
218 if the victim of the offense is under sixteen years of age, a class D
219 felony.

220 Sec. 11. Section 17a-93 of the general statutes is amended by adding
221 subsection (o) as follows (*Effective October 1, 2002*):

222 (NEW) (o) "Person entrusted with the care of a child or youth"
223 means a person given access to a child or youth by a person
224 responsible for the health, welfare or care of a child or youth for the
225 purpose of providing education, child care, counseling, spiritual
226 guidance, coaching, training, instruction, tutoring or mentoring of such
227 child or youth.

228 Sec. 12. Section 17a-101 of the general statutes is repealed and the
229 following is substituted in lieu thereof (*Effective October 1, 2002*):

230 (a) The public policy of this state is: To protect children whose
231 health and welfare may be adversely affected through injury and
232 neglect; to strengthen the family and to make the home safe for
233 children by enhancing the parental capacity for good child care; to
234 provide a temporary or permanent nurturing and safe environment for
235 children when necessary; and for these purposes to require the
236 reporting of suspected child abuse, investigation of such reports by a

237 social agency, and provision of services, where needed, to such child
238 and family.

239 (b) The following persons shall be mandated reporters: Any
240 physician or surgeon licensed under the provisions of chapter 370, any
241 resident physician or intern in any hospital in this state, whether or not
242 so licensed, any registered nurse, licensed practical nurse, medical
243 examiner, dentist, dental hygienist, psychologist, school teacher, school
244 principal, school guidance counselor, school paraprofessional, school
245 coach, social worker, police officer, [clergyman] juvenile or adult
246 probation officer, juvenile or adult parole officer, member of the clergy,
247 pharmacist, physical therapist, optometrist, chiropractor, podiatrist,
248 mental health professional or physician assistant, any person who is a
249 licensed or certified emergency medical services provider, any person
250 who is a licensed [substance abuse] or certified alcohol and drug
251 counselor, any person who is a licensed marital and family therapist,
252 any person who is a sexual assault counselor or a battered women's
253 counselor as defined in section 52-146k, any person who is a licensed
254 professional counselor, any person paid to care for a child in any
255 public or private facility, child day care center, group day care home or
256 family day care home licensed by the state, any employee of the
257 Department of Children and Families, any employee of the
258 Department of Public Health who is responsible for the licensing of
259 child day care centers, group day care homes, family day care homes
260 or youth camps, the Child Advocate and any employee of the Office of
261 Child Advocate.

262 (c) The Commissioner of Children and Families shall develop an
263 educational training program for the accurate and prompt
264 identification and reporting of child abuse and neglect. Such training
265 program shall be made available to all persons mandated to report
266 child abuse and neglect at various times and locations throughout the
267 state as determined by the Commissioner of Children and Families.

268 (d) Any mandated reporter, as defined in subsection (b) of this
269 section, who fails to report to the Commissioner of Children and

270 Families pursuant to section 17a-101a, as amended by this act, shall be
271 required to participate in an educational and training program
272 established by the commissioner. The program may be provided by
273 one or more private organizations approved by the commissioner,
274 provided the entire costs of the program shall be paid from fees
275 charged to the participants, the amount of which shall be subject to the
276 approval of the commissioner.

277 Sec. 13. Section 17a-101a of the general statutes is repealed and the
278 following is substituted in lieu thereof (*Effective October 1, 2002*):

279 Any mandated reporter, as defined in section 17a-101, as amended
280 by this act, who in [his professional capacity] the ordinary course of
281 such person's employment or profession has reasonable cause to
282 suspect or believe that any child under the age of eighteen years (1) has
283 been abused or neglected, as defined in section 46b-120, [or] (2) has
284 had nonaccidental physical injury, or injury which is at variance with
285 the history given of such injury, inflicted upon [him by a person
286 responsible for such child's health, welfare or care or by a person given
287 access to such child by such responsible person] such child, or (3) is
288 placed at imminent risk of serious harm, [by an act or failure to act on
289 the part of such responsible person, or has been neglected, as defined
290 in section 46b-120,] shall report or cause a report to be made in
291 accordance with the provisions of sections 17a-101b to 17a-101d,
292 inclusive, as amended by this act. Any person required to report under
293 the provisions of this section who fails to make such report shall be
294 fined not more than five hundred dollars and shall be required to
295 participate in an educational and training program pursuant to
296 subsection (d) of section 17a-101, as amended by this act.

297 Sec. 14. Section 17a-101b of the general statutes is repealed and the
298 following is substituted in lieu thereof (*Effective October 1, 2002*):

299 (a) An oral report shall be made by a mandated reporter [within
300 twenty-four hours of having] as soon as practicable but not later than
301 twelve hours after the mandated reporter has reasonable cause to

302 suspect or believe that a child has been abused or neglected or placed
303 in imminent risk of serious harm, by telephone or in person to the
304 Commissioner of Children and Families or a law enforcement agency.
305 If a law enforcement agency receives an oral report, it shall
306 immediately notify the Commissioner of Children and Families.

307 (b) If the commissioner or [his representative] the commissioner's
308 designee suspects or knows that such person has knowingly made a
309 false report, the identity of such person shall be disclosed to the
310 appropriate law enforcement agency and to the perpetrator of the
311 alleged abuse.

312 (c) If the Commissioner of Children and Families, or [his] the
313 commissioner's designee, receives a report alleging sexual abuse or
314 serious physical abuse, including, but not limited to, a report that: (1)
315 A child has died; (2) a child has been sexually assaulted; (3) a child has
316 suffered brain damage [,] or loss or serious impairment of a bodily
317 function or organ; (4) a child has been sexually exploited; or (5) a child
318 has suffered serious nonaccidental physical injury, [he] the
319 commissioner shall, within [twenty-four] twelve hours of receipt of
320 such report, notify the appropriate law enforcement agency.

321 (d) [When] Whenever a mandated reporter, as defined in section
322 17a-101, as amended by this act, has reasonable cause to suspect or
323 believe that any child has been abused or neglected by a member of the
324 staff of a public or private institution or facility that provides care for
325 such child or a public or private school, [he] the mandated reporter
326 shall report as required in subsection (a) of this section. [and shall also]
327 The Commissioner of Children and Families or the commissioner's
328 designee shall notify the person in charge of such institution, facility or
329 school [or facility] or the person's designee, unless such person is the
330 alleged perpetrator of the abuse or neglect of such child. Such person
331 in charge, or [his] such person's designee, shall then immediately
332 notify the child's parent or other person responsible for the child's care
333 that a report has been made.

334 Sec. 15. Subsection (a) of section 17a-101g of the general statutes is
335 repealed and the following is substituted in lieu thereof (*Effective*
336 *October 1, 2002*):

337 (a) Upon receiving a report of child abuse or neglect, as provided in
338 sections 17a-101a to 17a-101c, inclusive, as amended by this act, or
339 section 17a-103, in which the alleged perpetrator is (1) a person
340 responsible for such child's health, welfare or care, (2) a person given
341 access to such child by such responsible person, or (3) a person
342 entrusted with the care of a child, the Commissioner of Children and
343 Families, or [his] the commissioner's designee, shall cause the report to
344 be classified and evaluated immediately. If the report contains
345 sufficient information to warrant an investigation, the commissioner
346 shall make [his] the commissioner's best efforts to commence an
347 investigation of a report concerning an imminent risk of physical harm
348 to a child or other emergency within two hours of receipt of the report
349 and shall commence an investigation of all other reports within
350 seventy-two hours of receipt of the report. The department shall
351 complete any such investigation within thirty calendar days of receipt
352 of the report. If the report is a report of child abuse or neglect in which
353 the alleged perpetrator is not a person specified in subdivision (1), (2)
354 or (3) of this subsection, the Commissioner of Children and Families
355 shall refer the report to the appropriate local law enforcement
356 authority for the town in which the child resides or in which the
357 alleged abuse or neglect occurred.

358 Sec. 16. Section 17a-101j of the general statutes is repealed and the
359 following is substituted in lieu thereof (*Effective October 1, 2002*):

360 (a) After the investigation has been completed and the
361 Commissioner of Children and Families has reasonable cause to
362 believe that sexual abuse or serious physical abuse of a child has
363 occurred, the commissioner shall notify the appropriate local law
364 enforcement authority and the Chief State's Attorney or [his] the Chief
365 State's Attorney's designee or [a] the state's attorney for the judicial
366 district in which the child resides or in which the abuse or neglect

367 occurred [and to the appropriate local law enforcement authority] of
368 such belief and shall provide a copy of the report required in sections
369 17a-101a to 17a-101c, inclusive, as amended by this act, and 17a-103.

370 (b) Whenever a report has been made pursuant to sections 17a-101a
371 to 17a-101c, inclusive, as amended by this act, and 17a-103, alleging
372 that abuse or neglect has occurred at an institution or facility that
373 provides care for children [which] and is subject to licensure by the
374 state for the caring of children, and the Commissioner of Children and
375 Families, after investigation, has reasonable cause to believe abuse or
376 neglect has occurred, the commissioner shall forthwith notify the state
377 agency responsible for such licensure of such institution or facility and
378 provide records, whether or not created by the department, concerning
379 such investigation.

380 (c) If, after the investigation is completed, the commissioner
381 determines that [the person] a parent or guardian inflicting abuse or
382 neglecting a child is in need of treatment for substance abuse, the
383 commissioner shall refer such person to appropriate treatment
384 services.

385 Sec. 17. Section 17a-103a of the general statutes is repealed and the
386 following is substituted in lieu thereof (*Effective October 1, 2002*):

387 The Commissioner of Children and Families shall provide a
388 telephone hotline for child abuse that shall be dedicated to receive
389 reports of child abuse. Such hotline shall accept all reports of abuse or
390 neglect regardless of the relationship of the alleged perpetrator to the
391 child who is the alleged victim and regardless of the alleged
392 perpetrator's affiliation with any organization or other entity in any
393 capacity. The commissioner shall classify and evaluate all reports
394 pursuant to the provisions of section 17a-101g, as amended by this act.

395 Sec. 18. Section 17a-105a of the general statutes is repealed and the
396 following is substituted in lieu thereof (*Effective October 1, 2002*):

397 There shall be within the Division of State Police within the

398 Department of Public Safety a child abuse and neglect unit which,
399 within available resources, shall (1) at the request of the Commissioner
400 of Children and Families or the head of the local law enforcement
401 agency, or [his] such person's designee, assist [such team] a
402 multidisciplinary team established pursuant to section 17a-106a in the
403 investigation of a report of child abuse or neglect, (2) investigate
404 reports of crime involving child abuse or neglect in municipalities in
405 which there is no organized police force, and (3) participate in a
406 mutual support network that shares information and collaborates with
407 local law enforcement agencies.

408 Sec. 19. Section 52-146b of the general statutes is repealed and the
409 following is substituted in lieu thereof (*Effective July 1, 2002*):

410 [A clergyman, priest, minister, rabbi or practitioner of any religious
411 denomination accredited by the religious body to which he belongs
412 who is settled in the work of the ministry shall not disclose
413 confidential communications made to him in his professional capacity
414 in any civil or criminal case or proceedings preliminary thereto, or in
415 any legislative or administrative proceeding, unless the person making
416 the confidential communication waives such privilege herein
417 provided.]

418 (a) As used in this section:

419 (1) "Person" means an individual who consults with a member of
420 the clergy for purposes of individual, family or spiritual counseling.

421 (2) "Member of the clergy" means a clergyman, priest, minister,
422 rabbi or practitioner of any religious denomination accredited by the
423 religious body to which such practitioner belongs who is settled in the
424 work of the ministry.

425 (3) "Communications" means all oral and written communications
426 and records thereof relating to the counseling of a person between
427 such person and a member of the clergy or between a member of such
428 person's family and a member of the clergy.

429 (4) "Consent" means consent given in writing by the person or such
430 person's authorized representative.

431 (5) "Authorized representative" means (A) an individual authorized
432 by a person to assert the confidentiality of communications that are
433 privileged under this section, (B) if a person is deceased, a personal
434 representative or next of kin of such person, or (C) if a person is
435 incompetent to assert or waive the privilege under this section, (i) a
436 guardian or conservator who has been or is appointed to act for the
437 person, or (ii) for the purpose of maintaining the confidentiality of
438 communications until a guardian or conservator is appointed, the
439 person's nearest relative.

440 (b) Except as provided in subsection (c) of this section, in civil and
441 criminal actions, in juvenile, probate, commitment and arbitration
442 proceedings, in proceedings preliminary to such actions and
443 proceedings and in legislative and administrative proceedings, all
444 communications shall be privileged and a member of the clergy shall
445 not disclose such communications unless the person or the person's
446 authorized representative consents to waive the privilege and allow
447 such disclosure. The person or authorized representative may
448 withdraw any consent given pursuant to the provisions of this section
449 at any time in a writing addressed to the individual with whom or the
450 office in which the original consent was filed. The withdrawal of
451 consent shall not affect communications disclosed prior to notice of the
452 withdrawal.

453 (c) Consent of the person shall not be required for the disclosure of
454 such person's communications if the member of the clergy believes in
455 good faith that there is risk of imminent personal injury to the person
456 or other individuals or if child abuse, abuse of an elderly individual or
457 abuse of an individual who is disabled or incompetent is known or in
458 good faith is suspected.

459 (d) Whenever a member of the clergy has reasonable cause to
460 suspect or believe that any child under the age of eighteen years has

461 been abused or neglected, as defined in section 46b-120, based upon
462 any information received by such member of the clergy other than
463 through communications that are privileged pursuant to subsection (b)
464 of this section, such member of the clergy shall report or cause a report
465 to be made in accordance with the provisions of sections 17a-101a to
466 17a-101d, inclusive, as amended by this act.

467 Sec. 20. (NEW) (*Effective from passage*) In any action to recover
468 damages for personal injury to a minor, including emotional distress,
469 caused by sexual abuse, sexual exploitation or sexual assault, no court
470 shall enter an order or judgment in such action, or approve a
471 settlement of such action, that prohibits or restricts any person from
472 disclosing information concerning such abuse, exploitation or assault
473 to the Commissioner of Children and Families or a law enforcement
474 agency.

475 Sec. 21. Section 10-151c of the general statutes is repealed and the
476 following is substituted in lieu thereof (*Effective October 1, 2002*):

477 Any records maintained or kept on file by any local or regional
478 board of education which are records of teacher performance and
479 evaluation shall not be deemed to be public records and shall not be
480 subject to the provisions of section 1-210, as amended, provided that
481 any teacher may consent in writing to the release of [his] such teacher's
482 records by a board of education. Such consent shall be required for
483 each request for a release of such records. Notwithstanding any
484 provision of the general statutes, records maintained or kept on file by
485 any local or regional board of education which are records of the
486 personal misconduct of a teacher shall be deemed to be public records
487 and shall be subject to disclosure pursuant to the provisions of
488 subsection (a) of section 1-210. Disclosure of such records of a teacher's
489 personal misconduct shall not require the consent of the teacher. For
490 the purposes of this section, [the term] "teacher" [shall include]
491 includes each certified professional employee below the rank of
492 superintendent employed by a board of education in a position
493 requiring a certificate issued by the State Board of Education.

494 Sec. 22. (NEW) (*Effective from passage*) (a) There is established an
495 advisory committee to make recommendations concerning: (1) The
496 establishment of one or more sexual offender risk assessment boards to
497 assess and evaluate adjudicated and nonadjudicated sexual offenders
498 who are in the custody of a state agency or the Judicial Branch, or
499 receiving services from a provider under contract with a state agency
500 or the Judicial Branch, to determine whether such persons pose a risk
501 of engaging in illegal sexual behavior and make recommendations to
502 such state agency and the Judicial Branch concerning the appropriate
503 placement and level of supervision of such persons, and (2) the
504 manner in which a person having a reason to believe that a person in
505 the custody of a state agency or the Judicial Branch, or receiving
506 services from a provider under contract with a state agency or the
507 Judicial Branch, is at risk of engaging in illegal sexual behavior due to
508 such person's placement or level of supervision may report such belief
509 in confidence to a state agency, the Judicial Branch or a sexual offender
510 risk assessment board.

511 (b) The committee shall be composed of: (1) The following state
512 officials or their designees: The Chief Court Administrator, the
513 Attorney General, the Chief State's Attorney, the Chief Public
514 Defender, the commissioners of Children and Families, Correction,
515 Mental Health and Addiction Services, Mental Retardation, Public
516 Health and Public Safety, the secretary of the Office of Policy and
517 Management, the director of the Office of Protection and Advocacy,
518 the chairperson of the Psychiatric Security Review Board, the
519 chairperson of the Board of Parole, the executive director of the Court
520 Support Services Division, the director of the Office of Victim Services
521 and the Victim Advocate; and (2) a representative from each of the
522 following organizations: Connecticut Sexual Assault Crisis Services,
523 Inc., Connecticut Police Chiefs Association, Connecticut Association
524 for the Treatment of Sexual Offenders, The Connections, Inc.,
525 Connecticut Psychological Association and American Psychiatric
526 Association. The Secretary of the Office of Policy and Management or
527 the secretary's designee shall serve as chairperson of the advisory

528 committee.

529 (c) The advisory committee shall report its findings and
 530 recommendations to the joint standing committee of the General
 531 Assembly having cognizance of matters relating to judiciary not later
 532 than January 1, 2003, in accordance with the provisions of section 11-4a
 533 of the general statutes. The advisory committee shall terminate on the
 534 date it submits such report or January 1, 2003, whichever is earlier.

535 Sec. 23. Subsection (a) of section 52-598 of the general statutes is
 536 repealed and the following is substituted in lieu thereof (*Effective*
 537 *October 1, 2002*):

538 (a) No execution to enforce a judgment for money damages
 539 rendered in any court of this state may be issued after the expiration of
 540 twenty years from the date the judgment was entered and no action
 541 based upon such a judgment may be instituted after the expiration of
 542 twenty-five years from the date the judgment was entered, except that
 543 that there shall be no time limitation on the issuance of such execution
 544 or the institution of such action if the judgment was rendered in an
 545 action to recover damages for personal injury caused by sexual assault
 546 where the party legally at fault for such injury was convicted of a
 547 violation of section 53a-70 or 53a-70a.

This act shall take effect as follows:	
Section 1	<i>from passage and applicable to any offense committed on or after said date</i>
Sec. 2	<i>from passage and applicable to any cause of action arising from an incident committed prior to, on or after said date</i>
Sec. 3	<i>from passage and applicable to any cause of action arising from an incident committed prior to, on or after said date</i>
Sec. 4	<i>October 1, 2002</i>
Sec. 5	<i>October 1, 2002</i>
Sec. 6	<i>October 1, 2002</i>
Sec. 7	<i>October 1, 2002</i>

Sec. 8	<i>October 1, 2002</i>
Sec. 9	<i>October 1, 2002</i>
Sec. 10	<i>October 1, 2002</i>
Sec. 11	<i>October 1, 2002</i>
Sec. 12	<i>October 1, 2002</i>
Sec. 13	<i>October 1, 2002</i>
Sec. 14	<i>October 1, 2002</i>
Sec. 15	<i>October 1, 2002</i>
Sec. 16	<i>October 1, 2002</i>
Sec. 17	<i>October 1, 2002</i>
Sec. 18	<i>October 1, 2002</i>
Sec. 19	<i>July 1, 2002</i>
Sec. 20	<i>from passage</i>
Sec. 21	<i>October 1, 2002</i>
Sec. 22	<i>from passage</i>
Sec. 23	<i>October 1, 2002</i>

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:

Fund-Type	Agency Affected	Current FY \$	FY 03 \$	FY 04 \$
GF - Cost	Various Criminal Justice Agencies	-	Significant	Significant
GF - Revenue Gain	Children & Families, Dept.	-	Minimal	Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill makes various changes to the statutes related to sexual assault of minors and mandatory reporting.

Criminal and Civil Law Regarding Child Abuse (Sections 1 - 10)

The bill increases the penalties for sexual crimes against minors. This would result in a significant cost to the state primarily because it would extend the period of incarceration for persons convicted of these crimes.¹ It is estimated that between 250 to 350 people currently incarcerated under the statutes changed by the bill are for offenses involving minors. The bill also extends the statute of limitations for criminal and civil matters related to sexual crimes against a minor. Any associated caseload increase for criminal justice agencies could be handled within budgeted resources.

Reports of Child Abuse and Neglect (Section 11 -17, 19)

The bill makes changes that will increase the number of accepted

¹ See "Background" for a table of penalties.

reports of alleged abuse or neglect of a child or youth. These include: (a) Extending mandated reporter status to additional professionals; (b) requiring reports to be made regardless of the relationship of the alleged perpetrator to the child or youth, and (c) removing an accredited religious leader's confidentiality mandate concerning abuse or neglect of a child or youth. It is anticipated that processing these reports can be accommodated within the normally budgeted resources of DCF's telephone hotline. A potential minimal revenue gain to the state would result from subjecting additional mandated reporters to fines of up to \$500.

The bill requires a mandated reporter who fails to report to participate in an educational and training program. It is anticipated that this would be accomplished via the existing DCF Training Academy. A minimal revenue gain would result from collection of user fees charged to the participants. The fee, which would be established by the commissioner, would likely reflect the cost of a two hour class and be less than \$100 per person. Based on past experience, it is anticipated that the frequency with which mandated reporters who fail to report are identified will be low, and that few individuals will be required to attend the training course.

The Department will have to conduct investigations of alleged reports involving persons entrusted with the care of a child or youth. This represents a policy change in that these cases are now referred to law enforcement authorities. The number of resulting additional investigations cannot be determined at this time, however they are not anticipated to result in a significant cost to the department. This provision could reduce time and effort spent by law enforcement officials on these initial investigations.

The bill restricts those cases in which DCF is required to refer a person involved in a substantiated case of abuse or neglect of a child who needs substance abuse treatment to those in which the person is a parent or guardian. This change will likely lower the number of such referrals. Although some of these referrals may be to the Department

of Mental Health and Addiction Services (DMHAS), it is not anticipated to have any fiscal impact as a referral does not serve as an entitlement to state funded DMHAS services.

Role of State Police Regarding Child Abuse / Neglect (Section 18)

Section 18 of the bill, which is not anticipated to result in any additional fiscal impact, clarifies the role of the Division of State Police with regard to abused and neglected children. Current law provides that each State Police district commander *may* appoint a full time district youth officer whose overall mission is to coordinate efforts within the district regarding children and youth who are delinquent, abused, neglected or missing. The district youth officer is assisted by troop youth officers who have the responsibility of working with local law enforcement, the Superior Court for Juvenile Matters, the Department of Children and Families and all schools and other agencies serving children and youth from the district. The troop officers are also responsible for assisting district investigators with juvenile matters.

Other changes in Sections 11 - 19 are technical in nature or codify current practice and have no associated fiscal impact.

Disclosure of Information to DCF, Law Enforcement (Section 20)

This section provides that no civil judgments entered by the court may prohibit or restrict any person from disclosing information concerning such abuse, exploitation or assault to the DCF or law enforcement agency. There is no fiscal impact related to this section.

Amendments

House Amendment "A" struck everything and became the bill.

House Amendment "B" made a technical change.

House Amendment "D" established an advisory committee comprised of various state agencies to make recommendations

concerning the establishment of sex offender risk assessment board(s). The agencies can participate within budgeted resources, so there is no fiscal impact.

House Amendment "E" eliminated the time limit on the execution of any civil judgment for money damages arising under the bill. There is no related fiscal impact.

Background

Class	Imprisonment	Fine
Class A felony	10 to 25 years	up to \$20,000
Class A misdemeanor	up to 1 year	up to \$2,000
Class B felony	1 to 20 years	up to \$15,000
Class B misdemeanor	up to 6 months	up to \$1,000
Class C felony	1 to 10 years	up to \$10,000
Class C misdemeanor	up to 3 months	up to \$500
Class D felony	1 to 5 years	up to \$5,000

OLR Amended Bill Analysis

sHB 5680 (as amended by House "A," "B," "D," and "E")*

AN ACT CONCERNING SEXUAL ASSAULT OF A MINOR**SUMMARY:**

This bill:

1. increases the classification and maximum penalty for sex crimes involving minors under age 16;
2. requires courts to include a five year period of special parole in any sentence for first-degree aggravated sexual assault;
3. extends, from two to 30 years after the victim reaches age 18 or up to five years from the date he notifies the police or a prosecutor of the crime, the statute of limitations for prosecuting sexual abuse, sexual exploitation, or sexual assault of a minor, except when the offense is a class A felony;
4. extends, from 17 to 30 years after age 18, the civil statute of limitations for a minor victim of sexual abuse, sexual exploitation, or sexual assault to file a personal injury action based on the crime;
5. eliminates the statute of limitations for bringing a personal injury action to recover damages caused by sexual assault when the party legally at fault for the injury is convicted of first degree sexual assault or first degree aggravated sexual assault for such conduct;
6. eliminates the time a person has to enforce, or institute an action based on, a judgment rendered under these facts;
7. makes numerous changes to the mandated reporter statutes, including adding to the list of such reporters and requiring those who fail to report to attend a training program;
8. establishes additional rules concerning the protection of communications with members of the clergy;
9. establishes a 23-member advisory committee to make recommendations on the need for one or more sexual offender risk assessment boards and the process for reporting people in state custody or receiving state service who are at risk of engaging in illegal sexual behavior
10. prohibits courts from entering orders or judgments or approving settlements that prevent or restrict anyone from reporting

allegations of sexual abuse, sexual exploitation, or sexual assault of a minor, which were the subject of a personal injury action for damages, to the Department of Children and Families (DCF) commissioner or a law enforcement agency; and

11. makes a teacher's personal misconduct records public and subject to disclosure under the Freedom of Information Act without the teacher's consent.

*House Amendment "A" replaces the original bill.

*House Amendment "B" requires courts to include a five-year period of special parole in any sentence for first-degree aggravated sexual assault and makes technical changes.

*House Amendment "D" establishes the advisory committee.

*House Amendment "E" sets no time limit on enforcing, or instituting an action on, a judgment rendered in a personal injury action based on sexual assault when the party legally at fault for the injury is convicted of first-degree sexual assault or first degree aggravated sexual assault.

EFFECTIVE DATE: October 1, 2002 except (1) the provisions extending the criminal statute of limitations is effective upon passage and applicable to crimes committed on and after that date; (2) provisions eliminating secrecy in personal injury actions involving minor victims of sex crimes and establishing an advisory committee are effective upon passage; (3) the two civil statute of limitations provisions are effective upon passage and applicable to any cause of action arising from an incident committed prior to, on, and after that date; and (4) the provision on privileged communication is effective July 1, 2002.

SEXUAL ASSAULT CRIMES INVOLVING MINORS

The bill increases the classification and thus the maximum penalty for certain risk of injury and sexual assault crimes committed against minors under age 16.

TABLE 1: SEXUAL ASSAULT CRIMES INVOLVING MINORS

<i>Crime Description</i>	<i>Current Classification and Penalty</i>	<i>Classification and Penalty Under Bill</i>
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<p>The form of risk of injury to a minor involving sexual or indecent contact with the intimate parts of a child under age 16 or subjecting such child to contact with the intimate parts of the actor in a way likely to impair the child's health or morals.</p>	<p>A class C felony, punishable by up to 10 years imprisonment, a \$10,000 fine, or both.</p>	<p>A class B felony, punishable by up to 20 years imprisonment, a \$15,000 fine, or both.</p>
<p>The form of first-degree sexual assault involving sexual intercourse with a child (1) under age 16 by force or (2) under age 13 where the actor is at least two years older.</p>	<p>A class B felony, punishable by up to 20 years imprisonment, a \$15,000 fine, or both. The mandatory minimum sentence is at least two years but the combined sentence and special parole must equal at least 10 years.</p>	<p>A class A felony, punishable by 10 to 25 years imprisonment, up to a \$20,000 fine, or both. The mandatory minimum penalty is 5 years if the victim is between 10 and 16, 10 years if the victim is under 10 years old. The combined sentence and special parole must equal at least 10 years.</p>
<p>The form of first-degree aggravated sexual assault involving first-degree sexual assault against a minor under age 16 while armed, with intent to disfigure the victim, with an extreme indifference to human life, or while aided by two or more other people.</p>	<p>A class B felony, punishable by up to 20 years imprisonment, up to a \$15,000 fine, or both. The crime carries a five-year mandatory minimum sentence, but the combination of imprisonment and special parole must be 20 years.</p>	<p>A class A felony, punishable by 10- to 25 years imprisonment, up to a \$20,000 fine, or both. The crime carries a five-year mandatory minimum sentence. But if force is involved and the victim is under age 16, the mandatory minimum is 20 years. The combination of imprisonment and special parole must be 20 years.</p>
<p>The form of second-degree sexual assault involving sexual intercourse (1) when one person is between age 13 and 16 and the other is at least two years older, (2) with a mentally defective person, (3) with a physically helpless person, (4) between a guardian and minor, (5) between a psychotherapist and</p>	<p>A class C felony, punishable by up to 10 years imprisonment, a \$10,000 fine, or both. This crime carries a nine-month mandatory minimum sentence.</p>	<p>A class B felony, punishable by up to 20 years imprisonment, a \$15,000 fine, or both. This crime carries a nine-month mandatory minimum sentence.</p>

<p>patient, (6) through false representation, (7) between a person in custody or institutionalized and his supervisor or disciplinary authority, or (8) between a school employee and a student who attends the same school or one under the jurisdiction of the same local or regional board of education.</p>		
<p>The form of third-degree sexual assault involving (1) sexual contact by force or (2) sexual intercourse knowing that the relationship between the offender and the victim is that of parent and child, grandparent and grandchild, siblings, aunt or uncle and niece or nephew, or stepparent and stepchild.</p>	<p>A class D felony, punishable by up to five years imprisonment, a \$5,000 fine, or both.</p>	<p>A class C felony, punishable by up to 10 years imprisonment, a \$10,000 fine, or both.</p>
<p>The form of third-degree sexual assault with a firearm involving third-degree sexual assault while using, being armed with and threatening to use, or displaying or representing that he has a pistol, revolver, machine gun, rifle, shotgun, or other firearm.</p>	<p>A class C felony, punishable by up to 10 years imprisonment, a \$10,000 fine, or both. The crime carries a two-year mandatory minimum sentence but the combination of imprisonment and special parole must be 10 years.</p>	<p>A class B felony, punishable by up to 20 years imprisonment, a \$15,000 fine, or both. The crime carries a two-year mandatory minimum sentence but the combination of imprisonment and special parole must be 10 years.</p>
<p>The form of fourth-degree sexual assault involving intentional sexual contact with a person under age (1) 15, (2) 18 when the offender is the person's guardian or otherwise responsible for his welfare, or (3) 16 if the offender is a school employee and the victim is a student who attends the same school or one</p>	<p>A class A misdemeanor, punishable by up to one-year imprisonment, a \$2,000 fine, or both.</p>	<p>A class D felony, punishable by up to five years imprisonment, a \$5,000 fine, or both.</p>

under the jurisdiction of the same local or regional board of education.		
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STATUTE OF LIMITATIONS

Criminal

Under current law, the statute of limitations for prosecuting sexual abuse, sexual exploitation, or sexual assault of a minor is the earlier of two years after the victim reaches age 18 or up to five years from the date he notifies the police or a prosecutor of the crime. But in either case, the statute of limitations runs for at least five years after the crime was committed.

With two exceptions, this bill extends the period after the victim reaches age 18 from two to 30 years or up to five years from the date he notifies the police or a prosecutor of the crime and eliminates the mandatory minimum period for bringing the action. Cases involving second-degree sexual assault where the victim is between ages 13 and 16 and the offender is more than two years older, must be prosecuted not later than five years after the crime is committed. First-degree sexual assault and first-degree aggravated sexual assault, both class A felonies under the bill, may be prosecuted at any time.

Civil

With one exception, the bill extends, from 17 to 30 years after age 18, the civil statute of limitations for a minor victim of sexual abuse, sexual exploitation, or sexual assault to file a personal injury action based on the crime.

It eliminates the statute of limitations for bringing a personal injury action to recover damages caused by sexual assault when the party legally at fault for the injury is convicted of first-degree sexual assault or first degree aggravated sexual assault for such action. These actions may be brought at any time. It also eliminates the time a person has to enforce, or institute an action to collect money damages awarded in such an action. Under current people have 20 years to enforce these judgments (10 years for judgment rendered in small claims court) and 25 years to institute an action based on the judgment (15 for small claims).

MANDATED REPORTER LAWS

By law, certain professionals who have some degree of contact with children must report suspected abuse, neglect, and at-risk situations to the DCF. They must make an oral report within 24 hours of suspecting the problem, followed by a written report 48 hours after that. People who fail to report can be fined up to \$500. Reporters call a dedicated, toll-free hotline to make reports. The bill makes numerous changes to the law, including adding to the list of mandated reporters, shortening the reporting period, increasing the fine, and specifying that the hotline accept all calls concerning child abuse and neglect.

Mandated Reporters

The bill adds to the list of mandated child abuse reporters: juvenile or adult probation officers; juvenile or adult parole officers; school coaches; licensed or certified emergency medical services providers; licensed professional counselors; certified substance alcohol and drug abuse counselors; child care providers in licensed group day care homes; DCF employees; and Department of Public Health employees who are responsible for licensing child day care centers, group and family day care homes, and youth camps.

It requires mandated reporters, engaged in the ordinary course of business rather than acting in their professional capacity, to report to DCF when they have reasonable cause to suspect that a child under age 18 has been abused, neglected, or is at risk of abuse or neglect.

Under the bill mandated reporters no longer have to report suspected child abuse or neglect at the hands of institutional or school staff to the head of such institution or school. Instead, the bill requires the DCF commissioner or her designee to notify the head, except when the head is the alleged perpetrator. Once notified, the law continues to require the head or his designee to immediately notify the child's parent or other caregiver that a report has been made.

Timeframe for Making Reports

The bill reduces, from 24 hours to not later than 12 hours, the maximum period during which mandated reporters must orally report suspected cases of abuse or neglect to the DCF commissioner or a law enforcement agency. It broadens the

circumstances under which the report must be made to include cases where the reporter has reasonable cause to suspect or believe a child has been placed in imminent risk of serious harm by any person rather than only those responsible for the child's health, welfare, or care.

The bill reduces from 24 to 12, the maximum number of hours the commissioner or her designee has after receipt of a report of sexual or serious abuse to notify appropriate law enforcement agencies.

Penalty for Failure to Report

In addition to a \$500 fine imposed by law, the bill requires mandated reporter who fail to report child abuse or neglect to participate in an educational and training program that the DCF commissioner establishes through one or more private organizations. The program must be funded entirely from participant fees, which the commissioner must approve.

Child Abuse Hotline

The bill requires the child abuse telephone hotline to accept all reports of abuse or neglect regardless of the offender-victim relationship or the alleged offender's affiliation with any organization or entity. The DCF commissioner must classify and evaluate all reports in accordance with the law.

DCF CLASSIFICATION AND EVALUATION OF REPORTS OF CHILD ABUSE

Under current law, the DCF commissioner or her designee must have classified and immediately evaluated any report of child abuse or neglect. The bill limits this duty to reports of alleged abuse or neglect committed by people (1) responsible for the child's health, welfare, or care; (2) given access to the child by the responsible person; or (3) entrusted with the child's care. A person is "entrusted with the care of a child or youth" when someone responsible for the child's or youth's health, welfare, or care gives him access to educate, care, counsel, spiritually guide, coach, train, instruct, tutor, or mentor the child or youth.

In all other cases of reported abuse or neglect, the commissioner must refer the report to the appropriate local law enforcement authority where either the child resides or the abuse or neglect occurred.

The bill limits to parents and guardians, the people the DCF commissioner may refer for substance abuse treatment after an investigation indicates they probable abused or neglected a child.

STATE POLICE CHILD ABUSE AND NEGLECT UNIT

The bill requires the State Police Child Abuse and Neglect Unit to help multidisciplinary teams investigate reports of child abuse or neglect at the DCF commissioner's request. The unit must already provide this assistance at the request of the head of local law enforcement agencies. Multidisciplinary teams are located in each judicial district. They review selected child abuse or neglect cases, reduce the trauma to child victims, and ensure the child's protection and treatment.

PRIVILEGED COMMUNICATIONS BETWEEN CLERGY AND COMMUNICANT

The bill establishes additional rules for members of the clergy to exercise the privilege against revealing certain communications. Under current law, members of the clergy cannot disclose confidential communications, made to them in their official capacity, without the communicant's consent, in any civil, criminal, administrative, or legislative proceeding or any such preliminary proceedings.

The bill (1) protects the communication only if the person speaking to a member of the clergy is doing so for individual, family, or spiritual counseling and (2) specifies that communication means all oral and written communication and records of such relating to counseling between the communicant and a member of the clergy or the communicant's family and such a member.

By law, the communicant can waive his privilege in writing. The bill also allows his authorized representative to waive it. It allows the communicant or his authorized representative to withdraw any waiver at any time. The waiver withdrawal must be in writing and addressed to the person or office that received the waiver. An "authorized representative" is (1) a person authorized to assert the confidentiality of privileged communications, (2) the personal representative or next

of kin of a deceased communicant, (3) a court-appointed guardian or conservator of the person, or (4) the nearest relative of an incompetent person for whom a request for a guardian or conservator is pending.

Under the bill, the privilege does not attach to communications if the member of the clergy in good faith believes (1) the communicant or another person is at risk of imminent personal injury or (2) a child, or elderly, disabled, or incompetent person is or may be abused.

The bill requires members of the clergy, who learn of child abuse allegations during non-privileged communications, to report them if there is reasonable cause to believe that the child is under age 18 and has been abused or neglected.

ADVISORY COMMITTEE

The bill establishes a 23-member advisory committee to make recommendations concerning the (1) establishment of one or more sexual offender risk assessment boards and (2) process for someone to report, in confidence, that a person in state custody or receiving state services is at risk of engaging in illegal sexual behavior. The board(s)' duty would be to assess and evaluate adjudicated and non-adjudicated sexual offenders who are in state custody or receiving services from a state contract provider and determine if they pose a risk of engaging in illegal sexual behavior and make recommendations concerning their appropriate placement and level of supervision.

The committee must report its findings and recommendations to the Judiciary Committee by January 1, 2003. The committee terminates on the date it submits its report or January 1, 2003, whichever is earlier.

Committee Composition

The committee members are the following officials or their designees, with the OPM secretary or his designee serving as chair:

1. chief court administrator;
2. attorney general;
3. chief state's attorney;
4. chief public defender;
5. DCF, correction, mental health and addiction services, mental retardation, public health, and public safety commissioners;

6. OPM secretary;
7. Office of Protection and Advocacy and Office of Victim Services directors;
8. Psychiatric Security Review Board and Parole Board chairs;
9. Court Support Services Division executive director;
10. the victim advocate; and
11. a representative each from the Connecticut Sexual Assault Crisis Services, Inc. Connecticut Police Chiefs Association, Connecticut Association for the Treatment of Sexual Offenders, The Connections, Inc., Connecticut Psychological Association, and American Psychiatric Association.

BACKGROUND

Mandated Reporters

The following individuals are must report allegations of child abuse and neglect:

1. licensed physicians and surgeons and unlicensed medical residents;
2. registered and licensed practical nurses;
3. medical examiners;
4. dentists and dental hygienists;
5. psychologists, social workers, and licensed marital and family therapists;
6. school teachers, principals, guidance counselors, and paraprofessionals;
7. the child advocate;
8. police officers;
9. members of the clergy;
10. pharmacists and physical therapists;
11. licensed osteopaths, chiropractors, podiatrists, and physician's assistants;
12. licensed substance abuse counselors;
13. sexual assault and battered women's counselors; and

14. child care providers working in licensed facilities.

Teacher Evaluations

The Freedom of Information Act requires records retained by public agencies to be disclosed to the public unless a federal or state law requires the records to be kept confidential. Under state law, employees' personnel files are subject to disclosure except for portions that include medical or similar files, which, if disclosed, would legally constitute an invasion of privacy. Another law exempts from disclosure the performance evaluations of judges, public school teachers, state higher education faculty and professional staff members, and workers' compensation commission commissioners.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 40 Nay 0