



House of Representatives

General Assembly

File No. 733

January Session, 2003

Substitute House Bill No. 6687

House of Representatives, May 19, 2003

The Committee on Appropriations reported through REP. DYSON of the 94th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING PRISON OVERCROWDING.

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

1 Section 1. Section 17a-696 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2004*):

3 (a) The provisions of this section shall not apply to any person
4 charged with a violation of section 14-227a or 53a-60d or with a class
5 A, B or C felony or to any person who was twice previously ordered
6 treated under this section, subsection (i) of section 17-155y, section 19a-
7 386 or section 21a-284 of the general statutes revised to 1989, or any
8 combination thereof. The court may waive the ineligibility provisions
9 of this subsection for any person.

10 (b) The court [may] shall order suspension of prosecution and order
11 treatment for alcohol or drug dependency as provided in this section
12 and sections 17a-697 and 17a-698 if it, after considering information
13 before it concerning the alcohol or drug dependency of the person,

14 including the examination report made pursuant to the provisions of
15 section 17a-694, finds that (1) the accused person was an alcohol-
16 dependent or drug-dependent person at the time of the crime, (2) the
17 person presently needs and is likely to benefit from treatment for the
18 dependency, and (3) suspension of prosecution will advance the
19 interests of justice. Treatment may begin no earlier than the date the
20 clinical examiner reports under the provisions of section 17a-694 that
21 space is available in a treatment program.

22 (c) A suspension of prosecution ordered under the provisions of
23 subsection (b) of this section may be for a period not exceeding two
24 years. During the period of suspension, an accused person shall be
25 placed in the custody of the Court Support Services Division for
26 treatment for alcohol or drug dependency. The court or the Court
27 Support Services Division may require that the person (1) comply with
28 any of the conditions specified in subsections (a) and (b) of section 53a-
29 30, and (2) be tested for use of alcohol or drugs during the period of
30 suspension. The accused person shall, unless indigent, pay the cost of
31 treatment ordered under this section.

32 (d) If prosecution is suspended under the provisions of subsection
33 (b) of this section, (1) the statute of limitations applicable to the crime
34 charged shall be tolled during the period of suspension, and (2) the
35 accused person shall be deemed to have waived [his] such accused
36 person's right to a speedy trial for the crime charged.

37 (e) The court shall not suspend prosecution under subsection (b) of
38 this section unless (1) the accused person has acknowledged that he or
39 she understands the consequences of the suspension of prosecution, (2)
40 the accused person has given notice, by registered or certified mail on
41 a form prescribed by the Chief Court Administrator, to the victim, if
42 any, of the crime of which the person is accused and of the pending
43 motion for suspension of prosecution, (3) such victim, if [he exists] any,
44 has been given an opportunity to be heard on the motion for
45 suspension of prosecution, and (4) the accused person, unless [he] such
46 accused person is indigent, has paid to the clerk of the court an

47 administration fee of twenty-five dollars.

48 (f) If the prosecution is suspended, the person shall be released on a
49 written promise to appear or on a bond and any other bond posted in
50 any criminal proceeding concerning such person shall be terminated.

51 (g) If the court denies the motion for suspension of prosecution, the
52 state's attorney may proceed with prosecution of the crime.

53 (h) A person shall be deemed to be indigent for the purposes of this
54 section if the court determines the person has an estate insufficient to
55 provide for [his] the person's support or there is no other person
56 legally liable or able to support [him] the person.

57 Sec. 2. Section 21a-278 of the general statutes is repealed and the
58 following is substituted in lieu thereof (*Effective July 1, 2003*):

59 (a) Any person who manufactures, distributes, sells, prescribes,
60 dispenses, compounds, transports with the intent to sell or dispense,
61 possesses with the intent to sell or dispense, offers, gives or
62 administers to another person one or more preparations, compounds,
63 mixtures or substances containing an aggregate weight of one ounce or
64 more of heroin, methadone or cocaine or an aggregate weight of [one-
65 half gram] one ounce or more of cocaine in a free-base form or a
66 substance containing five milligrams or more of lysergic acid
67 diethylamide, except as authorized in this chapter, and who is not, at
68 the time of such action, a drug-dependent person, shall be imprisoned
69 for a minimum term of not less than five years nor more than twenty
70 years; and, a maximum term of life imprisonment. The execution of the
71 mandatory minimum sentence imposed by the provisions of this
72 subsection shall not be suspended except the court may suspend the
73 execution of such mandatory minimum sentence if at the time of the
74 commission of the offense (1) such person was under the age of
75 eighteen years, or (2) such person's mental capacity was significantly
76 impaired but not so impaired as to constitute a defense to prosecution.

77 (b) Any person who manufactures, distributes, sells, prescribes,

78 dispenses, compounds, transports with the intent to sell or dispense,
79 possesses with the intent to sell or dispense, offers, gives or
80 administers to another person any narcotic substance, hallucinogenic
81 substance other than marijuana, amphetamine-type substance, or one
82 kilogram or more of a cannabis-type substance except as authorized in
83 this chapter, and who is not at the time of such action a drug-
84 dependent person, for a first offense shall be imprisoned not less than
85 five years nor more than twenty years; and for each subsequent offense
86 shall be imprisoned not less than ten years nor more than twenty-five
87 years. The execution of the mandatory minimum sentence imposed by
88 the provisions of this subsection shall not be suspended except the
89 court may suspend the execution of such mandatory minimum
90 sentence if at the time of the commission of the offense (1) such person
91 was under the age of eighteen years, or (2) such person's mental
92 capacity was significantly impaired but not so impaired as to
93 constitute a defense to prosecution.

94 Sec. 3. (NEW) (*Effective July 1, 2003*) Notwithstanding any provision
95 of the general statutes, when sentencing a person convicted of an
96 offense for which there is a mandatory minimum sentence, which did
97 not involve the use, attempted use or threatened use of physical force
98 against another person or result in the physical injury or serious
99 physical injury of another person, and in the commission of which
100 such person neither was armed with nor threatened the use of or
101 displayed or represented by word or conduct that such person
102 possessed any firearm, deadly weapon or dangerous instrument, as
103 those terms are defined in section 53a-3 of the general statutes, the
104 court may, upon a showing of good cause by the defendant, depart
105 from the prescribed mandatory minimum sentence, provided the
106 court, at the time of sentencing, states in open court the reasons for
107 imposing the particular sentence and the specific reason for imposing a
108 sentence that departs from the prescribed mandatory minimum.

109 Sec. 4. Section 54-124a of the general statutes is repealed and the
110 following is substituted in lieu thereof (*Effective July 1, 2003*):

111 (a) There shall be a Board of Parole which, on and after July 1, [1998]
112 2003, shall consist of [~~fifteen~~] five members [, including a chairman and
113 two vice-chairmen who shall be] appointed by the Governor with the
114 advice and consent of either house of the General Assembly. [The
115 chairman and vice-chairmen shall be qualified by training, experience
116 or education in law, criminal justice, parole matters or other related
117 fields for the consideration of the matters before them and the other
118 members shall be qualified by training and experience for the
119 consideration of matters before them.] In the appointment of the
120 members, the Governor shall endeavor to reflect the racial diversity of
121 the state. The Governor shall appoint a chairperson from among the
122 membership. The chairperson of the board shall be qualified by
123 education, experience and training in the administration of community
124 corrections, probation or parole.

125 (b) The term of each appointed member of the board serving on
126 June 30, 2003, shall expire on said date. The term of [the chairman and
127 the term of each vice-chairman] each member of the board beginning
128 on or after July 1, 2003, shall be coterminous with the term of the
129 Governor or until a successor is chosen, whichever is later. [The terms
130 of all members, except the chairman, shall expire on July 1, 1994, and
131 on or after July 1, 1994, members shall be appointed in accordance with
132 subsection (a) of this section as follows: Six members shall be
133 appointed for a term of two years; and six members shall be appointed
134 for a term of four years. Thereafter, all members shall serve for terms
135 of four years.] Any vacancy in the membership of the board shall be
136 filled for the unexpired portion of the term by the Governor.

137 (c) The [chairman and vice-chairmen] chairperson shall devote
138 [their] his or her entire time to the performance of [their] his or her
139 duties hereunder and shall be compensated therefor in such amount as
140 the Commissioner of Administrative Services determines, subject to
141 the provisions of section 4-40. The other members of said board shall
142 receive one hundred ten dollars for each day spent in the performance
143 of their duties and shall be reimbursed for necessary expenses incurred
144 in the performance of such duties. The [chairman] chairperson or, in

145 [his] the chairperson's absence or inability to act, a member designated
146 by [him] the chairperson to serve temporarily as [chairman]
147 chairperson, shall be present at all meetings of said board and
148 participate in all decisions thereof.

149 (d) [Said chairman] The chairperson shall be the executive and
150 administrative head of said board and shall have the authority and
151 responsibility for (1) [directing and supervising] overseeing all
152 administrative affairs of the board, [(2) preparing the budget and
153 annual operation plan in consultation with the board, (3) assigning
154 staff to parole panels, regions and supervision offices, (4) organizing
155 parole hearing calendars to facilitate the timely and efficient
156 processing of cases, (5) implementing a uniform case filing and
157 processing system, (6)] (2) establishing policy in all areas of parole
158 including, but not limited to, structured decision making, release
159 criteria and supervision standards, [(7) establishing specialized parole
160 units as deemed necessary, (8) entering into contracts, in consultation
161 with the board, with service providers, community programs and
162 consultants for the proper function of parole and community
163 supervision, (9) creating programs for staff and board member
164 development, training and education, (10) establishing, developing
165 and maintaining noninstitutional, community-based service programs,
166 (11)] (3) consulting with the Department of Correction on shared issues
167 including, but not limited to, prison overcrowding, (4) consulting with
168 the Judicial Department on shared issues of community supervision,
169 and [(12)] (5) signing and issuing subpoenas to compel the attendance
170 and testimony of witnesses at parole proceedings. Any such subpoena
171 shall be enforceable to the same extent as subpoenas issued pursuant
172 to section 52-143.

173 (e) The [chairman] chairperson shall have the authority and
174 responsibility for assigning members to panels, each to be composed of
175 two members and the [chairman] chairperson or a member designated
176 to serve temporarily as [chairman] chairperson, for each correctional
177 institution. Such panels shall be the paroling authority for the
178 institutions to which they are assigned and not less than two members

179 shall be present at each parole hearing.

180 (f) The chairperson, or the chairperson's designee, and two members
181 of the board shall conduct all parole release hearings and shall approve
182 or deny all parole releases recommended by an employee of the board
183 pursuant to section 54-125b, as amended by this act, and all parole
184 revocations and parole rescissions recommended by an employee of
185 the board pursuant to section 8 of this act.

186 (g) The chairperson of the board shall appoint an executive director.
187 The executive director shall oversee the administration of the agency
188 and, at the discretion of the chairperson, shall: (1) Direct and supervise
189 all administrative affairs of the board, (2) prepare the budget and
190 annual operation plan, (3) assign staff to administrative review,
191 regions and supervision offices, (4) organize parole hearing calendars,
192 (5) implement a uniform case filing and processing system, (6)
193 establish specialized parole units, (7) review and establish parole
194 officer to parolee caseload ratios, (8) enter into contracts with service
195 providers, community programs and consultants, (9) create programs
196 for staff and board member development, training and education, and
197 (10) establish, develop and maintain noninstitutional, community-
198 based service programs.

199 (h) The chairperson and executive director shall develop policies
200 and procedures for:

201 (1) Parole revocation and rescission hearings that include
202 implementing due process requirements;

203 (2) An incremental sanctions system for parole violations including,
204 but not limited to, reincarceration based on the type, severity and
205 frequency of the violation and specific periods of incarceration for
206 certain types of violations; and

207 (3) A parole orientation program for all parole-eligible inmates upon
208 their transfer to the custody of the Commissioner of Correction that
209 will provide general information on the laws and policies regarding

210 parole release, calculation of time-served standards, general conditions
211 of release, supervision practices, revocation and rescission policies,
212 and procedures for administrative review and panel hearings, and any
213 other information that the board deems relevant for preparing inmates
214 for parole.

215 [(f)] (i) In the event of the temporary inability of any member other
216 than the [chairman] chairperson to perform his or her duties, the
217 Governor, at the request of the board, may appoint a qualified person
218 to serve as a temporary member during such period of inability.

219 [(g)] (j) The chairperson of the Board of Parole shall: (1) Adopt an
220 annual budget and plan of operation, (2) adopt such rules as deemed
221 necessary for the internal affairs of the board, (3) develop policy for
222 and administer the operation of the Interstate Parole Compact, and (4)
223 submit an annual report to the Governor and General Assembly.

224 Sec. 5. Section 54-125a of the general statutes is repealed and the
225 following is substituted in lieu thereof (*Effective July 1, 2003*):

226 (a) A person convicted of one or more crimes who is incarcerated on
227 or after October 1, 1990, who received a definite sentence or aggregate
228 sentence of more than [two years] thirty months, and who has been
229 confined under such sentence or sentences for not less than one-half of
230 the aggregate sentence or one-half of the most recent sentence imposed
231 by the court, whichever is greater, may be allowed to go at large on
232 parole in the discretion of the panel of the Board of Parole for the
233 institution in which the person is confined, if (1) it appears from all
234 available information, including any reports from the Commissioner of
235 Correction that the panel may require, that there is reasonable
236 probability that such inmate will live and remain at liberty without
237 violating the law, and (2) such release is not incompatible with the
238 welfare of society. At the discretion of the panel, and under the terms
239 and conditions as may be prescribed by the panel including requiring
240 the parolee to submit personal reports, the parolee shall be allowed to
241 return to the parolee's home or to reside in a residential community
242 center, or to go elsewhere. The parolee shall, while on parole, remain

243 in the legal custody and control of the board until the expiration of the
244 maximum term or terms for which the parolee was sentenced. Any
245 parolee released on the condition that the parolee reside in a
246 residential community center may be required to contribute to the cost
247 incidental to such residence. Each order of parole shall fix the limits of
248 the parolee's residence, which may be changed in the discretion of
249 such panel. Within three weeks after the commitment of each person
250 sentenced to more than one year, the state's attorney for the judicial
251 district shall send to the Board of Parole the record, if any, of such
252 person.

253 (b) (1) No person convicted of any of the following offenses, which
254 was committed on or after July 1, 1981, shall be eligible for parole
255 under subsection (a) of this section: Capital felony, as [defined]
256 provided in section 53a-54b, felony murder, as [defined] provided in
257 section 53a-54c, arson murder, as [defined] provided in section 53a-
258 54d, murder, as [defined] provided in section 53a-54a, or [any offense
259 committed with a firearm, as defined in section 53a-3, in or on, or
260 within one thousand five hundred feet of, the real property comprising
261 a public or private elementary or secondary school] aggravated sexual
262 assault in the first degree, as provided in section 53a-70a. (2) A person
263 convicted of an offense, other than an offense specified in subdivision
264 (1) of this subsection, where the underlying facts and circumstances of
265 the offense involve the use, attempted use or threatened use of
266 physical force against another person shall be ineligible for parole
267 under subsection (a) of this section until such person has served not
268 less than eighty-five per cent of the definite sentence imposed.

269 (c) The Board of Parole shall, not later than July 1, 1996, adopt
270 regulations in accordance with chapter 54 to ensure that a person
271 convicted of an offense described in subdivision (2) of subsection (b) of
272 this section is not released on parole until such person has served
273 eighty-five per cent of the definite sentence imposed by the court. Such
274 regulations shall include guidelines and procedures for classifying a
275 person as a violent offender that are not limited to a consideration of
276 the elements of the offense or offenses for which such person was

277 convicted.

278 [(d) Not later than January 15, 2002, the Board of Parole shall submit
279 a report to the Secretary of the Office of Policy and Management and,
280 in accordance with the provisions of section 11-4a, to the joint standing
281 committees of the General Assembly having cognizance of matters
282 relating to the Board of Parole, public safety and appropriations and
283 the budgets of state agencies setting forth the number of all persons
284 whose eligibility for parole release is subject to subsection (a) of this
285 section who, as of January 1, 2002, have completed seventy-five per
286 cent of their definite sentence and have not been approved for parole
287 release. Not later than February 15, 2002, and not later than the
288 fifteenth day of each month thereafter, the Board of Parole shall submit
289 a report to the Secretary of the Office of Policy and Management and,
290 in accordance with the provisions of section 11-4a, to the joint standing
291 committees of the General Assembly having cognizance of matters
292 relating to the Board of Parole, public safety and appropriations and
293 the budgets of state agencies setting forth the number of all such
294 persons who have completed seventy-five per cent of their definite
295 sentence in the preceding month and were not approved for parole
296 release.]

297 (d) Notwithstanding the provisions of subsection (a) of this section,
298 any person whose eligibility for parole release is subject to said
299 subsection and who has not been released on parole by the board in its
300 discretion, shall be released on parole supervision upon completion by
301 such person of seventy-five per cent of such person's definite sentence
302 or aggregate sentence unless: (1) Such person has been given a level
303 five security or chronic disciplinary status classification by the
304 Department of Correction, (2) such person has been given a level three
305 or four security group rating by the Department of Correction, (3) such
306 person has been the subject of a class A disciplinary report by the
307 Department of Correction for assault on staff or another inmate, rioting
308 or escape within the preceding twelve months, or (4) such person has a
309 pending criminal charge for the alleged commission of a felony during
310 such person's period of incarceration.

311 (e) Notwithstanding the provisions of subsection (a) of this section,
312 any person whose eligibility for parole release is subject to subdivision
313 (2) of subsection (b) of this section shall be released on parole
314 supervision upon completion by such person of eighty-five per cent of
315 such person's definite sentence or aggregate sentence unless: (1) Such
316 person has been given a level five security or chronic disciplinary
317 status classification by the Department of Correction, (2) such person
318 has been given a level three or four security group rating by the
319 Department of Correction, (3) such person has been the subject of a
320 class A disciplinary report by the Department of Correction for assault
321 on staff or another inmate, rioting or escape within the preceding
322 twelve months, or (4) such person has a pending criminal charge for
323 the alleged commission of a felony during such person's period of
324 incarceration.

325 Sec. 6. Section 54-125b of the general statutes is repealed and the
326 following is substituted in lieu thereof (*Effective July 1, 2003*):

327 (a) A person whose eligibility for parole release is subject to
328 subsection (a) of section 54-125a, as amended by this act, may be
329 allowed to go on parole in accordance with section 54-125a, as
330 amended by this act, or 54-125g without a parole hearing being
331 conducted by a panel of the Board of Parole if (1) an employee of the
332 Board of Parole has reviewed the inmate's case and recommended
333 parole be granted to such person, and (2) such recommendation has
334 been approved by at least two members of a panel of the board. A
335 parole hearing shall be conducted by a panel of the Board of Parole if
336 the chairperson of the board deems such a hearing to be necessary or if
337 a victim, as defined in sections 54-201 and 54-226, requests such a
338 hearing.

339 [(b) No inmate may be released pursuant to the provisions of
340 subsection (a) of this section if he or she has been convicted of a
341 violation of section 53a-55, 53a-55a, 53a-56, 53a-56a, 53a-56b, 53a-57,
342 53a-58, 53a-59, 53a-59a, 53a-70, 53a-70a, 53a-70b, 53a-92, 53a-92a, 53a-
343 134 or 53a-196a or has more than three years remaining on his or her

344 sentence.]

345 [(c)] (b) The chairperson of the Board of Parole shall adopt
346 regulations, in accordance with chapter 54, to establish criteria and
347 procedures for the administrative review and release of inmates
348 without a parole hearing as provided in this section.

349 Sec. 7. Section 54-125e of the general statutes is repealed and the
350 following is substituted in lieu thereof (*Effective July 1, 2003*):

351 (a) Any person convicted of a crime committed on or after October
352 1, 1998, who received a definite sentence of more than [two years]
353 thirty months followed by a period of special parole shall, at the
354 expiration of the maximum term or terms of imprisonment imposed by
355 the court, be automatically transferred from the custody of the
356 Commissioner of Correction to the jurisdiction of the [chairman]
357 chairperson of the Board of Parole or, if such person has previously
358 been released on parole pursuant to subsection (a) of section 54-125a,
359 as amended by this act, or section 54-131a, remain under the
360 jurisdiction of said [chairman] chairperson until the expiration of the
361 period of special parole imposed by the court.

362 (b) Any person sentenced to a period of special parole shall be
363 subject to such rules and conditions as may be established by the
364 Board of Parole or its [chairman] chairperson pursuant to section
365 54-126.

366 (c) The period of special parole shall be not less than one year nor
367 more than ten years except that such period may be for more than ten
368 years for a person convicted of a violation of subdivision (2) of section
369 53-21 of the general statutes in effect prior to October 1, 2000,
370 subdivision (2) of subsection (a) of section 53-21, section 53a-70,
371 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-72b or sentenced as a
372 persistent dangerous felony offender pursuant to subsection (h) of
373 section 53a-40 or as a persistent serious felony offender pursuant to
374 subsection (j) of section 53a-40.

375 (d) Whenever a parolee has, in the judgment of such parolee's
376 parole officer, violated the conditions of his or her special parole, the
377 board shall cause the parolee to be brought before it without
378 unnecessary delay for a hearing on the violation charges. At such
379 hearing, the parolee shall be informed of the manner in which such
380 parolee is alleged to have violated the conditions of such parolee's
381 special parole and shall be advised by the employee of the board
382 conducting the hearing of such parolee's due process rights.

383 (e) If such violation is established, the board may: (1) Continue the
384 sentence of special parole; (2) modify or enlarge the conditions of
385 special parole; or (3) revoke the sentence of special parole.

386 (f) If the board revokes special parole for a parolee, the chairperson
387 may issue a mittimus for the commitment of such parolee to the
388 custody of the Commissioner of Correction for any period not to
389 exceed the unexpired portion of the period of special parole.

390 (g) Whenever special parole has been revoked for a parolee, the
391 board may, at any time during the unexpired portion of the period of
392 special parole, allow the parolee to be released again on special parole
393 without court order.

394 Sec. 8. (NEW) (*Effective July 1, 2003*) All parole revocation and
395 rescission hearings shall be conducted by an employee of the Board of
396 Parole. The parole of a person who has been allowed to go on parole in
397 accordance with subsection (a) of section 54-125a of the general
398 statutes, as amended by this act, or section 54-125g of the general
399 statutes, who has been sentenced to a period of special parole in
400 accordance with subdivision (9) of subsection (b) of section 53a-28 of
401 the general statutes, or who has been released on parole in accordance
402 with subsection (d) or (e) of section 54-125a of the general statutes, as
403 amended by this act, shall be revoked or rescinded if, after such
404 hearing, the employee recommends such revocation or rescission and
405 such recommendation is approved by at least two members of a panel
406 of the board.

407 Sec. 9. Section 54-97 of the general statutes is repealed and the
408 following is substituted in lieu thereof (*Effective July 1, 2003*):

409 No person may be committed to [the Connecticut Correctional
410 Institution, Somers,] a correctional institution or a community
411 correctional center without a mittimus signed by the judge or clerk of
412 the court which committed [him] such person or, with respect to a
413 person sentenced to a period of special parole, signed by a chairperson
414 of the Board of Parole, declaring the cause of commitment and
415 requiring the warden or Community Correctional Center
416 Administrator to receive and keep [him] such person in the
417 [Correctional Institution, Somers,] correctional institution or the
418 community correctional center, as the case may be, for the period fixed
419 by the judgment of said court or said board or until [he] such person is
420 legally discharged; and such mittimus shall be sufficient authority to
421 the officer to commit such person, and to the warden or Community
422 Correctional Center Administrator to receive and hold [him] such
423 person in custody, except that any community correctional center may
424 receive any person as provided in section 7-135 without such mittimus.

425 Sec. 10. Section 54-128 of the general statutes is repealed and the
426 following is substituted in lieu thereof (*Effective July 1, 2003*):

427 (a) Any paroled [convict or] inmate who has been returned to the
428 custody of the Commissioner of Correction or any institution of the
429 Department of Correction for violation of [his] such inmate's parole
430 may be retained in [the institution from which he was paroled] a
431 correctional institution for a period equal to the unexpired portion of
432 the term of [his] such inmate's sentence at the date of the request or
433 order for [his] such inmate's return less any commutation or
434 diminution of [his] such inmate's sentence earned, except that the
435 Board of Parole may, in its discretion, determine that [he] such inmate
436 shall forfeit any or all of such earned time, or may be again paroled by
437 said board.

438 (b) Each parolee or inmate, subject to the provisions of section 18-7,
439 shall be subject to loss of all or any portion of time earned.

440 (c) Any person who, during the service of a period of special parole
441 imposed in accordance with subdivision (9) of section 53a-28, as
442 amended by this act, has been returned to the custody of the
443 Commissioner of Correction or any institution of the Department of
444 Correction for violation of [his] such person's parole, may be retained
445 in [the institution from which he was paroled] a correctional institution
446 for a period equal to the unexpired portion of the period of special
447 parole. The total length of the term of incarceration and term of special
448 parole combined shall not exceed the maximum sentence of
449 incarceration authorized for the offense for which the person was
450 convicted.

451 Sec. 11. (NEW) (*Effective July 1, 2003*) Notwithstanding the
452 provisions of section 54-125a of the general statutes, the chairperson of
453 the Board of Parole may transfer to any public or private nonprofit
454 halfway house, group home or mental health facility or to an approved
455 community or private residence any person who is confined in a
456 correctional institution or facility and (1) has been granted parole
457 release and is within eighteen months of the parole release date
458 established by the board, or (2) is within eighteen months of such
459 person's conditional parole release date under subsection (d) or (e) of
460 section 54-125a of the general statutes, as amended by this act. Any
461 person released from confinement pursuant to this section shall be
462 transferred from the custody of the Commissioner of Correction to the
463 jurisdiction of the chairperson of the Board of Parole. Such person
464 may, at any time, be returned to the custody of the Commissioner of
465 Correction.

466 Sec. 12. Subdivision (1) of subsection (a) of section 18-50 of the
467 general statutes is repealed and the following is substituted in lieu
468 thereof (*Effective July 1, 2003*):

469 (a) (1) Except as provided in subdivision (2) of this subsection, each
470 person committed to any community correctional center upon
471 conviction of any criminal offense, and held therein only for the
472 payment of a fine, shall be discharged from confinement when the

473 time served by such person at [the rate of fifty dollars a day] a per
474 diem rate equal to the average daily cost of incarceration as
475 determined by the Commissioner of Correction amounts to such fine
476 or the balance thereof remaining unpaid. Such person shall earn an
477 additional credit of fifty dollars toward such fine or balance thereof
478 remaining unpaid for each day such person is employed at productive
479 or maintenance work and has established a satisfactory work record.
480 In computing the number of days to be served, credit shall be given for
481 Sundays, holidays and the day of admission. Each person so
482 committed shall be released during the day following that which
483 completes the time to be served when computed in accordance with
484 this subdivision, or immediately upon payment of the fine in full.

485 Sec. 13. Subdivision (1) of subsection (a) of section 18-98d of the
486 general statutes is repealed and the following is substituted in lieu
487 thereof (*Effective July 1, 2003*):

488 (a) (1) Any person who is confined to a community correctional
489 center or a correctional institution for an offense committed on or after
490 July 1, 1981, under a mittimus or because such person is unable to
491 obtain bail or is denied bail shall, if subsequently imprisoned, earn a
492 reduction of such person's sentence equal to the number of days which
493 such person spent in such facility from the time such person was
494 placed in presentence confinement to the time such person began
495 serving the term of imprisonment imposed; provided (A) each day of
496 presentence confinement shall be counted only once for the purpose of
497 reducing all sentences imposed after such presentence confinement;
498 and (B) the provisions of this section shall only apply to a person for
499 whom the existence of a mittimus, an inability to obtain bail or the
500 denial of bail is the sole reason for such person's presentence
501 confinement, except that if a person is serving a term of imprisonment
502 at the same time such person is in presentence confinement on another
503 charge and the conviction for such imprisonment is reversed on
504 appeal, such person shall be entitled, in any sentence subsequently
505 imposed, to a reduction based on such presentence confinement in
506 accordance with the provisions of this section. In the case of a fine,

507 each day spent in such confinement prior to sentencing shall be
508 credited against the sentence at [the rate of fifty dollars] a per diem
509 rate equal to the average daily cost of incarceration as determined by
510 the Commissioner of Correction.

511 Sec. 14. Section 18-87j of the general statutes is repealed and the
512 following is substituted in lieu thereof (*Effective July 1, 2003*):

513 There is established a Commission on Prison and Jail Overcrowding
514 which shall be within the Office of Policy and Management for
515 administrative purposes only. The commission shall consist of the
516 Chief Court Administrator, [or his designee,] the Commissioner of
517 Correction, the Commissioner of Public Safety, the Chief State's
518 Attorney, [or his designee,] the Chief Public Defender, [or his
519 designee] the Commissioner of Mental Health and Addiction Services
520 and the chairperson of the Board of Parole, or their designees, the
521 executive director of the Court Support Services Division or other
522 designee of the Chief Court Administrator and the following members,
523 each of whom shall be appointed by the Governor: Three government
524 officials, a police chief, two persons representing offender and victim
525 services within the private community and two public members. The
526 Governor shall appoint a chairperson from among the members of the
527 commission. The commission shall meet at such times as it deems
528 necessary.

529 Sec. 15. Section 18-100c of the general statutes is repealed and the
530 following is substituted in lieu thereof (*Effective July 1, 2003*):

531 A person convicted of a crime who is incarcerated on or after July 1,
532 1993, who received a definite sentence of [two years] thirty months or
533 less, and who has been confined under such sentence for not less than
534 one-half of the sentence imposed by the court, less such time as may
535 have been earned under the provisions of section 18-7, 18-7a, 18-98a,
536 18-98b or 18-98d, may be released pursuant to subsection (e) of section
537 18-100 or to any other community correction program approved by the
538 Commissioner of Correction.

539 Sec. 16. (*Effective July 1, 2003*) Notwithstanding the provisions of
 540 subsection (a) of section 18-86b of the general statutes, during the fiscal
 541 year ending June 30, 2004, the Commissioner of Correction may, with
 542 the approval of the joint standing committees of the General Assembly
 543 on appropriations and the judiciary, enter into a contract with any
 544 governmental or private vendor for supervision of an additional two
 545 hundred fifty inmates outside the state if necessary to achieve the
 546 requirements of the budget for said fiscal year. The commissioner, in
 547 consultation with the Secretary of the Office of Policy and
 548 Management, shall prepare a transition plan for the phase-in of
 549 alternatives to incarceration concurrent with the development of
 550 community, residential, vocational and treatment resources for eligible
 551 inmates. The commissioner shall allocate sufficient funds for this
 552 purpose.

553 Sec. 17. (*Effective July 1, 2003*) Section 21a-283a of the general statutes
 554 is repealed.

| This act shall take effect as follows: | |
|--|---------------------|
| Section 1 | <i>July 1, 2004</i> |
| Sec. 2 | <i>July 1, 2003</i> |
| Sec. 3 | <i>July 1, 2003</i> |
| Sec. 4 | <i>July 1, 2003</i> |
| Sec. 5 | <i>July 1, 2003</i> |
| Sec. 6 | <i>July 1, 2003</i> |
| Sec. 7 | <i>July 1, 2003</i> |
| Sec. 8 | <i>July 1, 2003</i> |
| Sec. 9 | <i>July 1, 2003</i> |
| Sec. 10 | <i>July 1, 2003</i> |
| Sec. 11 | <i>July 1, 2003</i> |
| Sec. 12 | <i>July 1, 2003</i> |
| Sec. 13 | <i>July 1, 2003</i> |
| Sec. 14 | <i>July 1, 2003</i> |
| Sec. 15 | <i>July 1, 2003</i> |
| Sec. 16 | <i>July 1, 2003</i> |
| Sec. 17 | <i>July 1, 2003</i> |

APP *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:

| Agency Affected | Fund-Type | FY 04 \$ | FY 05 \$ |
|--|------------------|--------------------------|--------------------------|
| Correction, Dept. | GF - Savings | Significant | Significant |
| Parole, Bd. of; Judicial Dept.; Mental Health & Addiction Serv., Dept. | GF - Cost | Significant | Significant |
| NET IMPACT | GF - Savings | Potential Significant | Potential Significant |

Note: GF=General Fund

Municipal Impact: None

Explanation

Section 1 of the bill requires the court to order suspension of prosecution and treatment for alcohol or drug dependency if the court makes certain findings concerning a defendant (effective July 1, 2004).¹ This change could divert up to 450 people from prison and into treatment programs annually. The potential state savings from reducing prison admissions under this provision, net treatment and supervision costs described below, is estimated to be greater than \$1 million annually beginning in FY 05.

Although some or all of these clients may be referred for treatment under the Department of Mental Health and Addiction Services (DMHAS), it is not known how many of these clients actually will receive services. The DMHAS service system, for both inpatient and outpatient services, is currently operating at capacity, with lengthy

¹ The court must find that the accused person was an alcohol-dependent or drug-dependent person at the time of the crime, and the person needs and is likely to benefit from treatment. Prosecution cannot be suspended for a defendant who is charged with a class A, B or C felony, operating a motor vehicle while under the

waiting lists for services. However, given the current service cost structure, it is likely that DMHAS will incur significant costs for any additional clients who do receive services due to the provisions of this bill. The Judicial Department may also provide for treatment of clients under this provision in the bill and would incur significant costs as a result. In addition, the Judicial Department would incur significant costs to provide community supervision for these accused offenders.

Section 2 of the bill raises the aggregate weight of cocaine in free-base form that triggers the five year mandatory minimum prison sentence for any person who manufactures, distributes or sells it (effective July 1, 2003). Forty-nine individuals were convicted in FY 02 under CGS Section 21a-278(a), which applies this penalty to heroin, methadone and cocaine. To the extent that the court deviates from a mandatory minimum sentence in these cases, there could be an average correctional savings of 3 years per offender. The cumulative savings (on an average cost basis) from incarcerating someone for two years instead of five is \$78,000. Any savings under this provision's reduction to the length of incarceration would be generated in FY 06 and thereafter.

Section 3 of the bill permits the court to deviate from the mandatory minimum sentence for any person convicted of an offense that did not involve the use or threatened use of physical force, or the possession of a firearm, deadly weapon or dangerous instrument during commission of the crime for which they are convicted. The magnitude of this section's impact on the prison population is uncertain, pending decisions by the court, but could be substantial since more than 500 people are incarcerated under mandatory minimum sentences for non-violent offenses. This provision could generate significant savings in FY 04 and thereafter by reducing prison admissions and/or the length of incarceration for certain offenders.

Section 4 of the bill changes the Board of Parole from a primarily

influence of drugs or alcohol, or who was twice previously ordered to be treated under CGS Section 17a-696.

part-time membership to a full-time, professional board. Passage of the bill would result in a state cost of \$450,000 - \$550,000, including fringe benefits. The current board consists of 3 full-time (chairman and 2 vice chairmen) and 12 part-time members. The annual cost associated with the current full time and part-time members respectively is \$350,000 and \$60,000. It is anticipated that these funds would be used to offset the cost of the reorganized board.

Section 5 of the bill establishes a conditional parole release policy. Passage would result in potential significant savings to the Department of Correction (DOC), offset by potential significant costs for the Board of Parole. The annual cost per parolee is about \$5,000 and the annual cost per DOC inmate is \$26,000.² Thus, there is an annual savings of approximately \$20,000 to supervise an offender in the community as opposed to incarceration. Approximately 8,000 inmates could be conditionally released on parole during the first two years of implementation.³ These releases would level off to about 500 per year for the next three years.

The average length of all sentences is approximately 3 years or 36 months. If 1,000 offenders were released to parole after completion of 75% of their sentences, there would be a total savings of 273,750 bed days. The corresponding annual savings would be about \$20 million. Similarly, the annual cost to supervise these offenders on parole would be \$5 million; resulting in a net savings of \$15 million.

Implementation of the above proposal depends in part on coordination with the courts, corrections, and parole. In addition, implementation would require the reallocation of some resources to create community-based programs and supervision for the increased numbers of parolees. Furthermore, sustained savings would have to be achieved through the closing of existing facilities. While the report reflects the release of almost 9,500 inmates over five years, it is assumed that new offenders would occupy some portion of those beds.

² This is based on average parole officer caseload of 60 parolees.

³ Data provided by the Office of the Legislative Program Review and Investigations.

Section 6 of the bill increases the pool of offenders eligible for administrative parole. Passage of this section of the bill would reduce the number of full hearings and increase the number of administrative hearings per year by 25%. There are currently over 2,000 administrative actions per year; however, the parole grant rate for full panel actions and administrative review actions is primarily the same. It is uncertain as to whether there would be any fiscal impact to the state associated with this provision.

Sections 7 – 10 of the bill make clarifying changes to special parole and incremental sanctions policies within the Board of Parole. Passage of these provisions of the bill is not anticipated to result in any fiscal impact to the state.

Section 11 of the bill allows the Board of Parole to transfer offenders who are within 18 months of their parole release date to residential programs or approved community residences. The projected use of this new authority is unknown at this time. However, based on the historically conservative nature of the Board of Parole, it is anticipated that passage of this provision would have a minimal impact.

Sections 12 and 13 of the bill allow the credit earned toward payment of a fine or bail to be increased from \$50 to the average daily cost of incarceration. Passage of the bill would result in offenders occupying prison beds for less time, who are serving sentences for fines. There are currently 283 offenders serving sentences for fines valued at approximately \$233,835. At \$50/day, the number of bed days would be about 4,677. At \$96/day, the number of bed days would be 2,436 bed days, which is a difference of over 2,200 bed days.⁴

Section 14 of the bill adds members to the Prison and Jail Overcrowding Commission and would not result in any fiscal impact.

Section 15 of the bill gives DOC release authority over those offenders with sentences under 30 months and Section 5 gives the

⁴ The average daily inmate cost is \$72/day but when fringe benefit and debt service costs are included, the cost rises to \$96/day.

Board of Parole release authority over those offenders with sentences over 30 months. Under current law, 24 months is the benchmark in both cases. The impact of this provision of the bill is uncertain at this time. However, it should be noted that during the last year the Board of Parole granted parole to 200 offenders per month and DOC's average for transitional supervision was 240 per month.⁵

Section 16 of the bill authorizes DOC to transfer an additional 250 inmates to any governmental or private vendor. The state currently has 500 inmates in a state prison in Greensville, Virginia at a total annual cost of approximately \$12 million. The average daily inmate cost in Virginia is \$64 and the average daily cost for an inmate of the same security level in Connecticut is \$85. To the extent that the Department of Correction is able to enter into contracts with governmental or private vendors to supervise an additional 250 Connecticut inmates outside the state at a lower rate, there would be potential savings of \$1.75 million.

⁵ Both the Board of Parole and the Department of Correction consider approximately 3,000 – 5,000 offenders per month for community supervision.

OFA Bill Analysis

sHB 6687

AN ACT CONCERNING PRISON OVERCROWDING.

SUMMARY:

The bill provides for various proposals aimed at reducing the state's prison population, including (1) requiring the court to order suspension of prosecution in certain cases involving substance abuse, (2) equalizing the amount of cocaine in free-base form necessary to trigger mandatory minimum sentences; (3) allowing judges to depart from certain mandatory minimum sentences; (4) changing the Board of Parole to a full-time, five member operation; (5) instituting a system of conditional parole after completion of at least 75% of a term of incarceration; (6) expanding the pool of those eligible for administrative parole; (7) clarifying the system of incremental sanctions for special parole and traditional parole; (8) authorizing the Board of Parole to release offenders to community corrections programs; (9) increasing the credit earned toward payment of fines and bail from \$50 to the average daily cost of incarceration; (10) shifting release authority of the Board of Parole and the Department of Correction and (11) authorizing additional inmates to be sent out of state.

EFFECTIVE DATE: July 1, 2003 (except section 1 - July 1 2004)

COMMITTEE ACTION

Appropriations Committee

Joint Favorable Substitute

Yea 44 Nay 6