



House of Representatives

General Assembly

File No. 528

February Session, 2004

Substitute House Bill No. 5211

House of Representatives, April 8, 2004

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 54-124a of the general statutes, as amended by
2 section 161 of public act 03-6 of the June 30 special session, is repealed
3 and the following is substituted in lieu thereof (*Effective July 1, 2004*):

4 (a) There shall be a Board of [Parole] Pardons and Paroles within the
5 Department of Correction. [which] On and after October 1, 2004, the
6 board shall consist of [fifteen] thirteen members [, including a
7 chairman and two vice-chairmen who shall be] appointed by the
8 Governor with the advice and consent of either house of the General
9 Assembly. [The chairman and vice-chairmen shall be qualified by
10 training, experience or education in law, criminal justice, parole
11 matters or other related fields for the consideration of the matters
12 before them and the other members shall be qualified by training and
13 experience for the consideration of matters before them.] In the
14 appointment of the members, the Governor shall endeavor to reflect

15 the racial diversity of the state. The Governor shall appoint a
16 chairperson from among the membership. The chairperson of the
17 board shall be qualified by education, experience and training in the
18 administration of community corrections, parole or pardons.

19 (b) The term of each appointed member of the board serving on
20 September 30, 2004, shall expire on said date. The term of [the
21 chairman and the term of each vice-chairman] each member of the
22 board beginning on or after October 1, 2004, shall be coterminous with
23 the term of the Governor or until a successor is chosen, whichever is
24 later. [The terms of all members, except the chairman, shall expire on
25 July 1, 1994, and on or after July 1, 1994, members shall be appointed in
26 accordance with subsection (a) of this section as follows: Six members
27 shall be appointed for a term of two years; and six members shall be
28 appointed for a term of four years. Thereafter, all members shall serve
29 for terms of four years.] Any vacancy in the membership of the board
30 shall be filled for the unexpired portion of the term by the Governor.

31 (c) The [chairman] chairperson shall devote full time to the
32 performance of the duties [hereunder] under this section and shall be
33 compensated therefor in such amount as the Commissioner of
34 Administrative Services determines, subject to the provisions of section
35 4-40. The other members of said board shall receive one hundred ten
36 dollars for each day spent in the performance of their duties and shall
37 be reimbursed for necessary expenses incurred in the performance of
38 such duties. The [chairman or, in his] chairperson or, in the
39 chairperson's absence or inability to act, a member designated by [him]
40 the chairperson to serve temporarily as [chairman] chairperson, shall
41 be present at all meetings of said board and participate in all decisions
42 thereof.

43 (d) The [Commissioner of Correction] chairperson shall be the
44 executive and administrative head of said board and shall have the
45 authority and responsibility for (1) [directing and supervising]
46 overseeing all administrative affairs of the board, [(2) preparing the
47 budget and annual operation plan in consultation with the board, (3)

48 assigning staff to parole panels, regions and supervision offices, (4)
49 organizing parole hearing calendars to facilitate the timely and
50 efficient processing of cases, (5) implementing a uniform case filing
51 and processing system, (6) establishing policy] (2) adopting policies in
52 all areas of [parole] pardons and paroles including, but not limited to,
53 granting pardons, commutations of punishments or releases,
54 conditioned or absolute, in the case of any person convicted of any
55 offense against the state and commutations from the penalty of death,
56 risk-based structured decision making [,] and release criteria, [and
57 supervision standards, (7) establishing specialized parole units as
58 deemed necessary, (8) entering into contracts, in consultation with the
59 board, with service providers, community programs and consultants
60 for the proper function of parole and community supervision, (9)
61 creating programs for staff and board member development, training
62 and education, (10) establishing, developing and maintaining
63 noninstitutional, community-based service programs, and (11)] (3)
64 consulting with the Department of Correction on shared issues
65 including, but not limited to, prison overcrowding, (4) consulting with
66 the Judicial Department on shared issues of community supervision,
67 and (5) signing and issuing subpoenas to compel the attendance and
68 testimony of witnesses at parole proceedings. Any such subpoena shall
69 be enforceable to the same extent as subpoenas issued pursuant to
70 section 52-143, as amended.

71 (e) The [chairman] chairperson may serve on both pardons panels
72 and parole release panels and shall have the authority and
73 responsibility for assigning members to such panels. [, each to] The
74 chairperson shall assign seven members exclusively to parole release
75 hearings and shall assign five members exclusively to pardons
76 hearings. Except for the chairperson, no member assigned to parole
77 release hearings may be assigned subsequently to pardons hearings
78 and no member assigned to pardons hearings may be assigned
79 subsequently to parole release hearings. Each parole release panel shall
80 be composed of two members and the [chairman] chairperson or a
81 member designated to serve temporarily as [chairman] chairperson,
82 for each correctional institution. Such parole release panels shall be the

83 paroling authority for the institutions to which they are assigned and
84 not less than two members shall be present at each parole hearing.
85 Each pardons panel shall be composed of three members, one of whom
86 may be the chairperson, except that for hearings on commutations
87 from the penalty of death, one member of the panel shall be the
88 chairperson.

89 (f) The chairperson, or the chairperson's designee, and two members
90 of the board shall conduct all parole release hearings and shall approve
91 or deny all parole releases recommended by an employee of the board
92 pursuant to section 54-125b, as amended by this act, and all parole
93 revocations and parole rescissions recommended by an employee of
94 the board pursuant to section 6 of this act.

95 (g) The chairperson of the board shall appoint an executive director.
96 The executive director shall oversee the administration of the agency
97 and, at the discretion of the chairperson, shall: (1) Direct and supervise
98 all administrative affairs of the board, (2) prepare the budget and
99 annual operation plan, (3) assign staff to administrative reviews, (4)
100 organize pardons and parole release hearing calendars, (5) implement
101 a uniform case filing and processing system, and (6) create programs
102 for staff and board member development, training and education.

103 (h) The chairperson, in consultation with the executive director,
104 shall adopt regulations, in accordance with chapter 54, concerning:

105 (1) Parole revocation and rescission hearings that include
106 implementing due process requirements;

107 (2) An administrative pardons process that allows an applicant
108 convicted of a crime to be granted a pardon with respect to such crime
109 without a hearing, unless a victim of such crime requests such a
110 hearing, if such applicant was:

111 (A) Convicted of a misdemeanor and (i) such conduct no longer
112 constitutes a crime, (ii) such applicant was under twenty-one years of
113 age at the time of conviction and has not been convicted of a crime

114 during the ten years preceding the date on which the pardon is
115 granted, or (iii) such conviction occurred prior to the effective date of
116 the establishment of a program under sections 17a-692 to 17a-701,
117 inclusive, as amended, section 46b-38c, as amended, 53a-39a, 53a-39c,
118 as amended, 54-56e, as amended, 54-56g, as amended, 54-56i or 54-56j
119 for which the applicant would have been eligible had such program
120 existed at the time of conviction, provided the chairperson determines
121 the applicant would likely have been granted entry into such program;
122 or

123 (B) Convicted of a violation of section 21a-277, 21a-278 or 21a-279
124 and such applicant has not been convicted of a crime during the five
125 years preceding the date on which the pardon is granted, provided
126 such date is at least five years after the date of such conviction or such
127 applicant's release from incarceration, whichever is later; and

128 (3) Requiring board members assigned to pardons hearings to issue
129 written statements containing the reasons for rejecting any application
130 for a pardon.

131 (i) The Board of Pardons and Paroles shall hold a pardons hearing at
132 least once every three months and shall hold such hearings in various
133 geographical areas of the state. The board shall not hold a pardons
134 hearing within or on the grounds of a correctional facility except when
135 solely for the benefit of applicants who are incarcerated at the time of
136 such hearing.

137 (j) The chairperson and executive director shall establish:

138 (1) In consultation with the Department of Correction, a parole
139 orientation program for all parole-eligible inmates upon their transfer
140 to the custody of the Commissioner of Correction that will provide
141 general information on the laws and policies regarding parole release,
142 calculation of time-served standards, general conditions of release,
143 supervision practices, revocation and rescission policies, and
144 procedures for administrative review and panel hearings, and any
145 other information that the board deems relevant for preparing inmates

146 for parole; and

147 (2) An incremental sanctions system for parole violations including,
148 but not limited to, reincarceration based on the type, severity and
149 frequency of the violation and specific periods of incarceration for
150 certain types of violations.

151 [(f)] (k) In the event of the temporary inability of any member other
152 than the [chairman] chairperson to perform his or her duties, the
153 Governor, at the request of the board, may appoint a qualified person
154 to serve as a temporary member during such period of inability.

155 [(g)] (l) The chairperson of the Board of [Parole] Pardons and
156 Paroles shall: (1) Adopt an annual budget and plan of operation, (2)
157 adopt such rules as deemed necessary for the internal affairs of the
158 board, (3) [develop policy for and administer the operation] adopt
159 regulations, in accordance with chapter 54, for the administration of
160 the Interstate Parole Compact, and (4) submit an annual report to the
161 Governor and General Assembly.

162 Sec. 2. (NEW) (*Effective July 1, 2004*) (a) The Board of Pardons and
163 Paroles shall be a successor department to the Board of Pardons and
164 the Board of Parole in accordance with the provisions of sections 4-38d
165 and 4-39 of the general statutes.

166 (b) Wherever the words "Board of Pardons" or "Board of Parole" are
167 used in the general statutes or the public acts of 2003 and 2004, the
168 words "Board of Pardons and Paroles" shall be substituted in lieu
169 thereof.

170 (c) The Legislative Commissioners' Office shall, in codifying the
171 provisions of this section, make such technical, grammatical and
172 punctuation changes as are necessary to carry out the purposes of this
173 section.

174 Sec. 3. Section 54-125a of the general statutes is repealed and the
175 following is substituted in lieu thereof (*Effective from passage*):

176 (a) A person convicted of one or more crimes who is incarcerated on
177 or after October 1, 1990, who received a definite sentence or aggregate
178 sentence of more than two years, and who has been confined under
179 such sentence or sentences for not less than one-half of the aggregate
180 sentence or one-half of the most recent sentence imposed by the court,
181 whichever is greater, may be allowed to go at large on parole in the
182 discretion of the panel of the Board of Parole for the institution in
183 which the person is confined, if (1) it appears from all available
184 information, including any reports from the Commissioner of
185 Correction that the panel may require, that there is reasonable
186 probability that such inmate will live and remain at liberty without
187 violating the law, and (2) such release is not incompatible with the
188 welfare of society. At the discretion of the panel, and under the terms
189 and conditions as may be prescribed by the panel including requiring
190 the parolee to submit personal reports, the parolee shall be allowed to
191 return to the parolee's home or to reside in a residential community
192 center, or to go elsewhere. The parolee shall, while on parole, remain
193 in the legal custody and control of the board until the expiration of the
194 maximum term or terms for which the parolee was sentenced. Any
195 parolee released on the condition that the parolee reside in a
196 residential community center may be required to contribute to the cost
197 incidental to such residence. Each order of parole shall fix the limits of
198 the parolee's residence, which may be changed in the discretion of
199 such panel. Within three weeks after the commitment of each person
200 sentenced to more than one year, the state's attorney for the judicial
201 district shall send to the Board of Parole the record, if any, of such
202 person.

203 (b) (1) No person convicted of any of the following offenses, which
204 was committed on or after July 1, 1981, shall be eligible for parole
205 under subsection (a) of this section: Capital felony, as [defined]
206 provided in section 53a-54b, felony murder, as [defined] provided in
207 section 53a-54c, arson murder, as [defined] provided in section 53a-
208 54d, murder, as [defined] provided in section 53a-54a, or [any offense
209 committed with a firearm, as defined in section 53a-3, in or on, or
210 within one thousand five hundred feet of, the real property comprising

211 a public or private elementary or secondary school] aggravated sexual
212 assault in the first degree, as provided in section 53a-70a. (2) A person
213 convicted of an offense, other than an offense specified in subdivision
214 (1) of this subsection, where the underlying facts and circumstances of
215 the offense involve the use, attempted use or threatened use of
216 physical force against another person shall be ineligible for parole
217 under subsection (a) of this section until such person has served not
218 less than eighty-five per cent of the definite sentence imposed.

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

228 [(d) Not later than January 15, 2002, the Board of Parole shall submit
229 a report to the Secretary of the Office of Policy and Management and,
230 in accordance with the provisions of section 11-4a, to the joint standing
231 committees of the General Assembly having cognizance of matters
232 relating to the Board of Parole, public safety and appropriations and
233 the budgets of state agencies setting forth the number of all persons
234 whose eligibility for parole release is subject to subsection (a) of this
235 section who, as of January 1, 2002, have completed seventy-five per
236 cent of their definite sentence and have not been approved for parole
237 release. Not later than February 15, 2002, and not later than the
238 fifteenth day of each month thereafter, the Board of Parole shall submit
239 a report to the Secretary of the Office of Policy and Management and,
240 in accordance with the provisions of section 11-4a, to the joint standing
241 committees of the General Assembly having cognizance of matters
242 relating to the Board of Parole, public safety and appropriations and
243 the budgets of state agencies setting forth the number of all such
244 persons who have completed seventy-five per cent of their definite

245 sentence in the preceding month and were not approved for parole
246 release.]

247 (d) The Board of Parole shall hold a hearing to determine the
248 suitability for parole release of any person whose eligibility for parole
249 release is not subject to the provisions of subsection (b) of this section
250 upon completion by such person of seventy-five per cent of such
251 person's definite or aggregate sentence.

252 (e) The Board of Parole shall hold a hearing to determine the
253 suitability for parole release of any person whose eligibility for parole
254 release is subject to the provisions of subdivision (2) of subsection (b)
255 of this section upon completion by such person of eighty-five per cent
256 of such person's definite or aggregate sentence.

257 (f) Any person released on parole under this section shall remain in
258 the custody of the Commissioner of Correction and be subject to
259 supervision by personnel of the Department of Correction during such
260 person's period of parole.

261 Sec. 4. Section 54-125b of the general statutes is repealed and the
262 following is substituted in lieu thereof (*Effective from passage*):

263 (a) A person whose eligibility for parole release is not subject to the
264 provisions of subsection (b) of section 54-125a, as amended by this act,
265 may be allowed to go on parole in accordance with section 54-125a, as
266 amended by this act, or 54-125g without a parole hearing being
267 conducted by a panel of the Board of Parole if (1) an employee of the
268 Board of Parole has reviewed the inmate's case and recommended
269 parole be granted to such person, and (2) such recommendation has
270 been approved by at least two members of a panel of the board. A
271 parole hearing shall be conducted by a panel of the Board of Parole if
272 the chairperson of the board deems such a hearing to be necessary or if
273 a victim, as defined in sections 54-201, as amended, and 54-226,
274 requests such a hearing.

275 [(b) No inmate may be released pursuant to the provisions of

276 subsection (a) of this section if he or she has been convicted of a
277 violation of section 53a-55, 53a-55a, 53a-56, 53a-56a, 53a-56b, 53a-57,
278 53a-58, 53a-59, 53a-59a, 53a-70, 53a-70a, 53a-70b, 53a-92, 53a-92a, 53a-
279 134 or 53a-196a or has more than three years remaining on his or her
280 sentence.]

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

285 Sec. 5. Section 54-125e of the general statutes is repealed and the
286 following is substituted in lieu thereof (*Effective from passage*):

287 (a) Any person convicted of a crime committed on or after October
288 1, 1998, who received a definite sentence of more than two years
289 followed by a period of special parole shall, at the expiration of the
290 maximum term or terms of imprisonment imposed by the court, be
291 automatically transferred from the custody of the Commissioner of
292 Correction to the jurisdiction of the [chairman] chairperson of the
293 Board of Parole or, if such person has previously been released on
294 parole pursuant to subsection (a) of section 54-125a, as amended by
295 this act, or section 54-131a, remain under the jurisdiction of said
296 [chairman] chairperson until the expiration of the period of special
297 parole imposed by the court. The Department of Correction shall be
298 responsible for the supervision of any person transferred to the
299 jurisdiction of the chairperson of the Board of Parole under this section
300 during such person's period of special parole.

301 (b) Any person sentenced to a period of special parole shall be
302 subject to such rules and conditions as may be established by the
303 Board of Parole or its [chairman] chairperson pursuant to section
304 54-126.

305 (c) The period of special parole shall be not less than one year nor
306 more than ten years except that such period may be for more than ten
307 years for a person convicted of a violation of subdivision (2) of section

308 53-21 of the general statutes in effect prior to October 1, 2000,
309 subdivision (2) of subsection (a) of section 53-21, section 53a-70,
310 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-72b or sentenced as a
311 persistent dangerous felony offender pursuant to subsection (h) of
312 section 53a-40 or as a persistent serious felony offender pursuant to
313 subsection (j) of section 53a-40.

314 (d) Whenever a parolee has, in the judgment of such parolee's
315 parole officer, violated the conditions of his or her special parole, the
316 board shall cause the parolee to be brought before it without
317 unnecessary delay for a hearing on the violation charges. At such
318 hearing, the parolee shall be informed of the manner in which such
319 parolee is alleged to have violated the conditions of such parolee's
320 special parole and shall be advised by the employee of the board
321 conducting the hearing of such parolee's due process rights.

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

325 (f) If the board revokes special parole for a parolee, the chairperson
326 may issue a mittimus for the commitment of such parolee to the
327 custody of the Commissioner of Correction for any period not to
328 exceed the unexpired portion of the period of special parole.

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

333 Sec. 6. (NEW) (*Effective from passage*) All parole revocation and
334 rescission hearings shall be conducted by an employee of the Board of
335 Parole. The parole of a person who has been allowed to go on parole in
336 accordance with subsection (a) of section 54-125a of the general
337 statutes, as amended by this act, or section 54-125g of the general
338 statutes, who has been sentenced to a period of special parole in
339 accordance with subdivision (9) of subsection (b) of section 53a-28 of

340 the general statutes, or who has been released on parole in accordance
341 with subsection (d) or (e) of section 54-125a of the general statutes, as
342 amended by this act, shall be revoked or rescinded if, after such
343 hearing, the employee recommends such revocation or rescission and
344 such recommendation is approved by at least two members of a panel
345 of the board.

346 Sec. 7. Section 54-97 of the general statutes is repealed and the
347 following is substituted in lieu thereof (*Effective from passage*):

348 No person may be committed to [the Connecticut Correctional
349 Institution, Somers,] a correctional institution or a community
350 correctional center without a mittimus signed by the judge or clerk of
351 the court which committed [him] such person or, with respect to a
352 person sentenced to a period of special parole, signed by the
353 chairperson of the Board of Parole, declaring the cause of commitment
354 and requiring the warden or Community Correctional Center
355 Administrator to receive and keep [him] such person in the
356 [Correctional Institution, Somers,] correctional institution or the
357 community correctional center, as the case may be, for the period fixed
358 by the judgment of said court or said board or until [he] such person is
359 legally discharged; and such mittimus shall be sufficient authority to
360 the officer to commit such person, and to the warden or Community
361 Correctional Center Administrator to receive and hold [him] such
362 person in custody, except that any community correctional center may
363 receive any person as provided in section 7-135 without such mittimus.

364 Sec. 8. Section 54-128 of the general statutes is repealed and the
365 following is substituted in lieu thereof (*Effective from passage*):

366 (a) Any paroled [convict or] inmate who has been returned to the
367 custody of the Commissioner of Correction or any institution of the
368 Department of Correction for violation of [his] such inmate's parole
369 may be retained in [the institution from which he was paroled] a
370 correctional institution for a period equal to the unexpired portion of
371 the term of [his] such inmate's sentence at the date of the request or
372 order for [his] such inmate's return less any commutation or

373 diminution of [his] such inmate's sentence earned, except that the
374 Board of Parole may, in its discretion, determine that [he] such inmate
375 shall forfeit any or all of such earned time, or may be again paroled by
376 said board.

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

379 (c) Any person who, during the service of a period of special parole
380 imposed in accordance with subdivision (9) of subsection (b) of section
381 53a-28, has been returned to the custody of the Commissioner of
382 Correction or any institution of the Department of Correction for
383 violation of [his] such person's parole, may be retained in [the
384 institution from which he was paroled] a correctional institution for a
385 period equal to the unexpired portion of the period of special parole.
386 The total length of the term of incarceration and term of special parole
387 combined shall not exceed the maximum sentence of incarceration
388 authorized for the offense for which the person was convicted.

389 Sec. 9. (NEW) (*Effective from passage*) Notwithstanding the provisions
390 of section 54-125a of the general statutes, as amended by this act, the
391 chairperson of the Board of Parole may transfer to any public or
392 private nonprofit halfway house, group home or mental health facility
393 or to an approved community or private residence any person
394 confined in a correctional institution or facility who has been granted
395 parole release and is within eighteen months of the parole release date
396 established by the board. Any person released from confinement
397 pursuant to this section shall be transferred from the custody of the
398 Commissioner of Correction to the jurisdiction of the chairperson of
399 the Board of Parole. The Department of Correction shall be responsible
400 for the supervision of any person transferred to the jurisdiction of the
401 chairperson of the Board of Parole under this section while such
402 person is residing at such halfway house, group home, mental health
403 facility or community or private residence. Such person may, at any
404 time, be returned to the custody of the Commissioner of Correction.

405 Sec. 10. (NEW) (*Effective from passage*) Unless otherwise ordered by

406 the court, whenever an arrested person charged with the commission of
407 no crime other than a class D felony or a misdemeanor, except a violation
408 of section 53a-60a, 53a-60b, 53a-60c, 53a-60d, 53a-72a, 53a-73a or 53a-181c
409 of the general statutes, is committed by the court to the custody of the
410 Commissioner of Correction pursuant to section 54-64a of the general
411 statutes, as amended, the commissioner may release such person to a
412 residence approved by the Department of Correction subject to such
413 conditions as the commissioner may impose including, but not limited
414 to, participation in a substance abuse treatment program and being
415 subject to electronic monitoring or any other monitoring technology or
416 services. Any person released pursuant to this section shall be
417 supervised by the department and remain under the jurisdiction of the
418 commissioner during the period of such release. Upon the violation by
419 such person of any condition of such release, the commissioner may
420 revoke such release and return such person to confinement in a
421 correctional facility.

422 Sec. 11. Section 18-86b of the general statutes, as amended by section
423 156 of public act 03-6 of the June 30 special session, is repealed and the
424 following is substituted in lieu thereof (*Effective from passage*):

425 (a) Notwithstanding the provisions of sections 18-105 to 18-107,
426 inclusive, the Commissioner of Correction is authorized to improve the
427 operation of the state's correctional facilities by entering into contracts
428 with any governmental or private vendor for supervision of not more
429 than five hundred inmates outside the state. Any such governmental
430 or private vendor shall agree to be bound by the provisions of the
431 Interstate Corrections Compact, and any governmental or privately-
432 operated facility to which state inmates are transferred pursuant to a
433 contract under this subsection shall be located in a state which has
434 enacted and entered into the Interstate Corrections Compact.

435 (b) (1) Notwithstanding the provisions of sections 18-105 to 18-107,
436 inclusive, during the fiscal years ending June 30, 2004, and June 30,
437 2005, the Commissioner of Correction is authorized to improve the
438 operation of the state's correctional facilities by entering into contracts

439 in accordance with this subsection with any governmental or private
440 vendor for the supervision of not more than an additional two
441 thousand inmates outside the state.

442 (2) If the governmental vendor with which the commissioner has a
443 contract under subsection (a) of this section on August 20, 2003, for the
444 supervision of inmates outside this state is willing to accept additional
445 inmates for supervision, the Commissioner of Correction may,
446 notwithstanding the provisions of section 4a-57, enter into a contract
447 with such governmental vendor for the supervision of such number of
448 additional inmates as such governmental vendor is willing to accept. If
449 the commissioner does not enter into such a contract with such
450 governmental vendor or if, after contracting for the supervision of
451 additional inmates by such governmental vendor, the number of
452 inmates authorized to be supervised outside this state under
453 subdivision (1) of this subsection has not been attained, the
454 commissioner may enter into contracts with any governmental or
455 private vendor for the supervision of all or part of the remaining
456 number of inmates authorized to be supervised outside this state
457 under said subdivision (1).

458 (3) Any such governmental or private vendor shall agree to be
459 bound by the provisions of the Interstate Corrections Compact, and
460 any governmental or privately-operated facility to which state inmates
461 are transferred pursuant to a contract under this subsection shall be
462 located in a state which has enacted and entered into the Interstate
463 Corrections Compact.

464 (4) Prior to entering into any contract under this subsection, the
465 commissioner shall submit such proposed contract to the joint
466 standing committees of the General Assembly having cognizance of
467 matters relating to appropriations and the budgets of state agencies
468 and to the judiciary for their review and comment.

469 (c) A state inmate confined in any governmental or privately-
470 operated facility pursuant to the terms of any contract with the state
471 shall at all times be subject to the authority of the Commissioner of

472 Correction who may at any time remove the inmate for transfer to a
473 state correctional facility or other institution, for transfer to another
474 governmental or privately-operated facility, for release on probation or
475 parole, for discharge or for any other purpose permitted by the laws of
476 this state.

477 Sec. 12. Subdivision (1) of subsection (a) of section 18-50 of the
478 general statutes is repealed and the following is substituted in lieu
479 thereof (*Effective from passage*):

480 (a) (1) Except as provided in subdivision (2) of this subsection, each
481 person committed to any community correctional center upon
482 conviction of any criminal offense, and held therein only for the
483 payment of a fine, shall be discharged from confinement when the
484 time served by such person at [the rate of fifty dollars a day] a per
485 diem rate equal to the average daily cost of incarceration as
486 determined by the Commissioner of Correction amounts to such fine
487 or the balance thereof remaining unpaid. Such person shall earn an
488 additional credit of fifty dollars toward such fine or balance thereof
489 remaining unpaid for each day such person is employed at productive
490 or maintenance work and has established a satisfactory work record.
491 In computing the number of days to be served, credit shall be given for
492 Sundays, holidays and the day of admission. Each person so
493 committed shall be released during the day following that which
494 completes the time to be served when computed in accordance with
495 this subdivision, or immediately upon payment of the fine in full.

496 Sec. 13. Subdivision (1) of subsection (a) of section 18-98d of the
497 general statutes is repealed and the following is substituted in lieu
498 thereof (*Effective from passage*):

499 (a) (1) Any person who is confined to a community correctional
500 center or a correctional institution for an offense committed on or after
501 July 1, 1981, under a mittimus or because such person is unable to
502 obtain bail or is denied bail shall, if subsequently imprisoned, earn a
503 reduction of such person's sentence equal to the number of days which
504 such person spent in such facility from the time such person was

505 placed in presentence confinement to the time such person began
506 serving the term of imprisonment imposed; provided (A) each day of
507 presentence confinement shall be counted only once for the purpose of
508 reducing all sentences imposed after such presentence confinement;
509 and (B) the provisions of this section shall only apply to a person for
510 whom the existence of a mittimus, an inability to obtain bail or the
511 denial of bail is the sole reason for such person's presentence
512 confinement, except that if a person is serving a term of imprisonment
513 at the same time such person is in presentence confinement on another
514 charge and the conviction for such imprisonment is reversed on
515 appeal, such person shall be entitled, in any sentence subsequently
516 imposed, to a reduction based on such presentence confinement in
517 accordance with the provisions of this section. In the case of a fine,
518 each day spent in such confinement prior to sentencing shall be
519 credited against the sentence at [the rate of fifty dollars] a per diem
520 rate equal to the average daily cost of incarceration as determined by
521 the Commissioner of Correction.

522 Sec. 14. Section 18-87j of the general statutes is repealed and the
523 following is substituted in lieu thereof (*Effective from passage*):

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

539 necessary.

540 Sec. 15. Subsection (b) of section 17b-94 of the general statutes is
541 repealed and the following is substituted in lieu thereof (*Effective from*
542 *passage*):

543 (b) In the case of an inheritance of an estate by a beneficiary of aid
544 under the state supplement program, medical assistance program, aid
545 to families with dependent children program, temporary family
546 assistance program or state-administered general assistance program,
547 subject to subsections (b) and (c) of section 17b-93, fifty per cent of the
548 assets of the estate payable to the beneficiary or the amount of such
549 assets equal to the amount of assistance paid, whichever is less, shall
550 be assignable to the state for payment of the amount due under said
551 section 17b-93. The state shall have a lien against such assets in the
552 applicable amount specified in this subsection. The Court of Probate
553 shall accept any such assignment executed by the beneficiary [and] or
554 any such lien notice if such assignment or lien notice is filed by the
555 Commissioner of Administrative Services with the court prior to the
556 distribution of such inheritance, and to the extent of such inheritance
557 not already distributed, the court shall order distribution in accordance
558 therewith. If the Commissioner of Administrative Services receives any
559 assets of an estate pursuant to any such assignment, the commissioner
560 shall be subject to the same duties and liabilities concerning such
561 assigned assets as the beneficiary.

562 Sec. 16. Section 18-85 of the general statutes is repealed and the
563 following is substituted in lieu thereof (*Effective from passage*):

564 The commissioner, after consultation with the Commissioner of
565 Administrative Services and the Secretary of the Office of Policy and
566 Management, shall establish a schedule of compensation for services
567 performed on behalf of the state by inmates of any institution or
568 facility of the department. Such schedule shall recognize degrees of
569 merit, diligence and skill in order to encourage inmate incentive and
570 industry. Sums so earned shall be deposited, under the direction of the
571 administrative head of such institution or facility, in a savings bank or

572 state bank and trust company in this state, and shall be paid to the
573 inmate on his discharge; but the warden or Community Correctional
574 Center Administrator may, while the inmate is in custody, disburse
575 any compensation earned by such [person] inmate in accordance with
576 the following priorities: (1) Federal taxes due; (2) restitution or
577 payment of compensation to a crime victim ordered by any court of
578 competent jurisdiction; (3) payment of a civil judgment rendered in
579 favor of a crime victim by any court of competent jurisdiction; (4)
580 victims compensation through the criminal injuries account
581 administered by the Office of Victim Services; (5) state taxes due; (6)
582 support of his dependents, if any; (7) his necessary travel expense to
583 and from work and other incidental expenses; (8) costs of [his board as
584 determined by the commissioner] such inmate's incarceration under
585 section 18-85a, as amended by this act, and regulations adopted in
586 accordance with said section; and (9) payment to the clerk of the court
587 in which an inmate of a community correctional center, held only for
588 payment of a fine, was convicted, such portion of such compensation
589 as is necessary to pay such fine. Any interest that accrues shall be
590 credited to any institutional fund established for the welfare of
591 inmates. Compensation under this section shall be in addition to any
592 compensation received or credited under section 18-50, as amended by
593 this act.

594 Sec. 17. Section 18-85a of the general statutes is repealed and the
595 following is substituted in lieu thereof (*Effective from passage and*
596 *applicable to actions or proceedings pending or commenced on or after said*
597 *date*):

598 (a) The Commissioner of Correction shall adopt regulations, in
599 accordance with the provisions of chapter 54, concerning the
600 assessment of inmates of correctional institutions or facilities for the
601 costs of their incarceration.

602 (b) The state shall have a claim against each inmate for the costs of
603 such inmate's incarceration under this section, and regulations
604 adopted in accordance with this section, for which the state has not

605 been reimbursed. Any property owned by such inmate may be used to
606 satisfy such claim, except property that is: (1) Exempt pursuant to
607 section 52-352b, as amended, or 52-352d, except as provided in
608 subsection (b) of section 52-321a, as amended by this act; (2) subject to
609 the provisions of section 54-218; or (3) acquired by such inmate after
610 the inmate is released from incarceration, but not including property
611 so acquired that is subject to the provisions of section 18-85b or 18-85c,
612 as amended by this act, or section 52-367c, and except as provided in
613 subsection (b) of section 52-321a, as amended by this act. In addition to
614 other remedies available at law, the Attorney General, on request of
615 the Commissioner of Correction, may bring an action in the superior
616 court for the judicial district of Hartford to enforce such claim,
617 provided no such action shall be brought but within two years from
618 the date the inmate is released from incarceration or, if the inmate dies
619 while in the custody of the commissioner, within two years from the
620 date of the inmate's death, except that such limitation period shall not
621 apply if such property was fraudulently concealed from the state.

622 Sec. 18. Section 18-85b of the general statutes is repealed and the
623 following is substituted in lieu thereof (*Effective from passage*):

624 (a) In the case of causes of action of any person obligated to pay the
625 costs of such person's incarceration under section 18-85a, as amended
626 by this act, and regulations adopted in accordance with said section
627 brought by such person within twenty years from the date such person
628 is released from incarceration, the claim of the state shall be a lien
629 against the proceeds therefrom in the amount of the costs of
630 incarceration or fifty per cent of the proceeds received by such person
631 after payment of all expenses connected with the cause of action,
632 whichever is less, for repayment under said section, and shall have
633 priority over all other claims, including any lien of the state for
634 repayment of public assistance, except (1) attorney's fees for [said
635 causes] the cause of action, (2) expenses of suit, (3) costs of
636 hospitalization connected with the cause of action by whomever paid
637 over and above hospital insurance or other such benefits, and, for such
638 period of hospitalization as was not paid for by the state, physicians'

639 fees for services during any such period as are connected with the
640 cause of action over and above medical insurance or other such
641 benefits, (4) child support obligations pursuant to subsection (d) of
642 section 17b-93, (5) restitution or payment of compensation to a crime
643 victim ordered by a court of competent jurisdiction, and (6) payment of
644 a civil judgment rendered in favor of a crime victim by a court of
645 competent jurisdiction; and such claim shall consist of the total amount
646 of the costs of incarceration under section 18-85a, as amended by this
647 act, and regulations adopted in accordance with said section. The
648 proceeds of such causes of action shall be assignable to the state for
649 payment of the amount due under section 18-85a, as amended by this
650 act, and regulations adopted in accordance with said section,
651 irrespective of any other provision of law. The state's lien shall
652 constitute an irrevocable direction to the attorney for [the inmate] such
653 person to pay the Commissioner of Correction or the commissioner's
654 designee in accordance with its terms, except if, after written notice
655 from the attorney for [the inmate] such person informing the
656 commissioner or the commissioner's designee of the settlement of the
657 cause of action or judgment thereon and requesting the amount of the
658 lien to be paid to the commissioner or the commissioner's designee, the
659 commissioner or the commissioner's designee does not inform such
660 attorney of the amount of the state's lien within forty-five days of
661 receipt of the written request of such attorney for such information,
662 such attorney may distribute such proceeds to such [inmate] person
663 and shall not be liable for any loss the state may sustain thereby.

664 (b) In the case of an inheritance of an estate by any person who is
665 obligated to pay the costs of such person's incarceration [in accordance
666 with] under section 18-85a, as amended by this act, and [the]
667 regulations adopted [under] in accordance with said section that is
668 received by such person within twenty years from the date such
669 person is released from incarceration, the claim of the state shall be a
670 lien against such inheritance in the amount of the costs of incarceration
671 or fifty per cent of the assets of the estate payable to [the inmate] such
672 person, whichever is less. The Court of Probate shall accept any such
673 lien notice filed by the commissioner or the commissioner's designee

674 with the court prior to the distribution of such inheritance, and to the
675 extent of such inheritance not already distributed, the court shall order
676 distribution in accordance therewith.

677 Sec. 19. Section 18-85c of the general statutes is repealed and the
678 following is substituted in lieu thereof (*Effective from passage*):

679 Upon the death of any person obligated to pay the costs of such
680 person's incarceration under section 18-85a, as amended by this act,
681 and regulations adopted in accordance with said section that occurs
682 within twenty years from the date such person is released from
683 incarceration, the state shall have a claim against such person's estate
684 for all costs of incarceration under the provisions of said section and
685 such regulations for which the state has not been reimbursed, to the
686 extent that the amount which the surviving spouse, parent or
687 dependent children of the decedent would otherwise take from such
688 estate is not needed for their support. Such claim shall have priority
689 over all other unsecured claims against such estate, including any lien
690 of the state for repayment of public assistance, except (1) expenses of
691 last sickness not to exceed three hundred seventy-five dollars, (2)
692 funeral and burial expenses in accordance with that allowed under
693 section 17b-84 upon the death of a beneficiary of aid, (3) child support
694 obligations pursuant to subsection (d) of section 17b-93, (4) restitution
695 or payment of compensation to a crime victim ordered by a court of
696 competent jurisdiction, (5) payment of a civil judgment rendered in
697 favor of a crime victim by a court of competent jurisdiction, and (6)
698 administrative expenses, including probate fees and taxes, and
699 including fiduciary fees not exceeding the following commissions on
700 the value of the whole estates accounted for by such fiduciaries: On the
701 first two thousand dollars or portion thereof, five per cent; on the next
702 eight thousand dollars or portion thereof, four per cent; on the excess
703 over ten thousand dollars, three per cent. Upon petition by any
704 fiduciary, the Court of Probate, after a hearing thereon, may authorize
705 compensation in excess of the above schedule for extraordinary
706 services. Notice of any such petition and hearing shall be given to the
707 Commissioner of Correction at least ten days in advance of such

708 hearing. The allowable funeral and burial payment authorized by this
709 section shall be reduced by the amount of any prepaid funeral
710 arrangement. Any amount paid from the estate under this section to
711 any person that exceeds the limits provided in this section shall be
712 repaid to the estate by such person, and such amount may be
713 recovered in a civil action with interest at the legal rate from the date
714 of demand.

715 Sec. 20. Subsection (b) of section 18-101 of the general statutes is
716 repealed and the following is substituted in lieu thereof (*Effective from*
717 *passage*):

718 (b) On granting privileges to any person under section 18-90b or 18-
719 100, the commissioner or his designee shall disburse any compensation
720 earned by such person in accordance with the following priorities: (1)
721 Federal taxes due; (2) restitution or payment of compensation to a
722 crime victim ordered by any court of competent jurisdiction; (3)
723 payment of a civil judgment rendered in favor of a crime victim by any
724 court of competent jurisdiction; (4) victims compensation through the
725 criminal injuries account administered by the Office of Victim Services;
726 (5) state taxes due; (6) support of his dependents, if any; (7) his
727 necessary travel expense to and from work and other incidental
728 expenses; and (8) costs of [his board as determined by said
729 commissioner] such person's incarceration under section 18-85a, as
730 amended by this act, and regulations adopted in accordance with said
731 section, and the commissioner shall pay any balance remaining to such
732 person upon his discharge. Each person gainfully self-employed shall
733 pay to the commissioner the costs of [his board, as determined by said
734 commissioner] such person's incarceration under section 18-85a, as
735 amended by this act, and regulations adopted in accordance with said
736 section, and on default in payment thereof his participation under
737 section 18-100 shall be revoked.

738 Sec. 21. Subsection (b) of section 52-321a of the general statutes, as
739 amended by section 119 of public act 03-19, is repealed and the
740 following is substituted in lieu thereof (*Effective from passage*):

741 (b) Nothing in this section shall impair the rights of an alternate
742 payee under a qualified domestic relations order, as defined in Section
743 414(p) of the Internal Revenue Code of 1986, or any subsequent
744 corresponding internal revenue code of the United States, as from time
745 to time amended. Nothing in this section or in subsection (m) of
746 section 52-352b shall impair the rights of the state to proceed under
747 section 52-361a, as amended, to recover the costs of incarceration
748 under section 18-85a, as amended by this act, and regulations adopted
749 in accordance with section 18-85a, as amended by this act, from any
750 federal, state or municipal pension, annuity or insurance contract or
751 similar arrangement described in subdivision (5) of subsection (a) of
752 this section, provided the rights of an alternate payee under a qualified
753 domestic relations order, as defined in Section 414(p) of the Internal
754 Revenue Code of 1986, or any subsequent corresponding internal
755 revenue code of the United States, as from time to time amended, shall
756 take precedence over any such recovery. Nothing in this section or in
757 subsection (m) of section 52-352b shall impair the rights of a victim of
758 crime to proceed under section 52-361a, as amended, to recover
759 damages awarded by a court of competent jurisdiction from any
760 federal, state or municipal pension, annuity or insurance contract or
761 similar arrangement described in subdivision (5) of subsection (a) of
762 this section when such damages are the result of a crime committed by
763 a participant or beneficiary of such pension, annuity or insurance
764 contract or similar arrangement, [;] provided the rights of an alternate
765 payee under a qualified domestic relations order, as defined in Section
766 414(p) of the Internal Revenue Code of 1986, or any subsequent
767 corresponding internal revenue code of the United States, as from time
768 to time amended, shall take precedence over any such recovery.

769 Sec. 22. (NEW) (*Effective from passage*) Notwithstanding any
770 provision of the general statutes, when sentencing a person convicted
771 of an offense for which there is a mandatory minimum sentence,
772 except a capital felony, class A felony or class B felony or a violation of
773 subsection (b) of section 14-223, subsection (a) of section 21a-278a or
774 section 53-202j, 53-202k, 53a-56a, 53a-60c, 53a-61a, 53a-71, 53a-72b, 53a-
775 102a, 53a-136a or 53a-303 of the general statutes, the court may, upon a

776 showing of good cause by the defendant, depart from the prescribed
777 mandatory minimum sentence, provided (1) the court, at the time of
778 sentencing, states in open court the reasons for imposing the particular
779 sentence and the specific reason for imposing a sentence that departs
780 from the prescribed mandatory minimum sentence, and (2) if the
781 offense is a violation of subsection (c) of section 21a-267, section 21a-
782 278, subsection (b) of section 21a-278a or subsection (d) of section 21a-
783 279 of the general statutes, (A) the offense did not involve the use,
784 attempted use or threatened use of physical force against another
785 person, (B) the offense did not result in the physical injury or serious
786 physical injury of another person, and (C) in the commission of the
787 offense such person neither was armed with nor threatened the use of
788 or displayed or represented by word or conduct that such person
789 possessed any firearm, deadly weapon or dangerous instrument, as
790 those terms are defined in section 53a-3 of the general statutes.

791 Sec. 23. Section 17a-696 of the general statutes is repealed and the
792 following is substituted in lieu thereof (*Effective from passage*):

793 (a) The provisions of this section shall not apply to any person
794 charged with a violation of section 14-227a, as amended, or 53a-60d or
795 with a class A, B or C felony or to any person who was twice
796 previously ordered treated under this section, subsection (i) of section
797 17-155y, section 19a-386 or section 21a-284 of the general statutes
798 revised to 1989, or any combination thereof. The court may waive the
799 ineligibility provisions of this subsection for any person.

800 (b) The court may order suspension of prosecution and order
801 treatment for alcohol or drug dependency as provided in this section
802 and sections 17a-697 and 17a-698 if it, after considering information
803 before it concerning the alcohol or drug dependency of the person,
804 including the examination report made pursuant to the provisions of
805 section 17a-694, finds that (1) the accused person was an alcohol-
806 dependent or drug-dependent person at the time of the crime, (2) the
807 person presently needs and is likely to benefit from treatment for the
808 dependency, and (3) suspension of prosecution will advance the

809 interests of justice. Treatment may begin no earlier than the date the
810 clinical examiner reports under the provisions of section 17a-694 that
811 space is available in a treatment program.

812 (c) A suspension of prosecution ordered under the provisions of
813 subsection (b) of this section may be for a period not exceeding two
814 years. During the period of suspension, an accused person shall be
815 placed in the custody of the Court Support Services Division for
816 treatment for alcohol or drug dependency. The court or the Court
817 Support Services Division may require that the person (1) comply with
818 any of the conditions specified in subsections (a) and (b) of section 53a-
819 30, as amended, and (2) be tested for use of alcohol or drugs during the
820 period of suspension. The accused person shall, unless indigent, pay
821 the cost of treatment ordered under this section.

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

827 (e) The court shall not suspend prosecution under subsection (b) of
828 this section unless (1) the accused person has acknowledged that he or
829 she understands the consequences of the suspension of prosecution, (2)
830 the accused person has given notice, by registered or certified mail on
831 a form prescribed by the Chief Court Administrator, to the victim, if
832 any, of the crime of which the person is accused and of the pending
833 motion for suspension of prosecution, (3) such victim, if [he exists] any,
834 has been given an opportunity to be heard on the motion for
835 suspension of prosecution, and (4) the accused person, unless [he] such
836 accused person is indigent, has paid to the clerk of the court an
837 administration fee of twenty-five dollars.

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

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

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

847 Sec. 24. (NEW) (*Effective from passage*) Any child who is arrested and
848 held in a detention center, an alternative detention center or a police
849 station or courthouse lockup prior to the disposition of a juvenile
850 matter shall, if subsequently convicted as delinquent by the Superior
851 Court and sentenced to a period of probation, earn a reduction of such
852 child's period of probation, including any extensions thereof, equal to
853 the number of days that such child spent in such detention center or
854 lockup.

855 Sec. 25. (*Effective from passage*) The staff of Legislative Program
856 Review and Investigations Committee and the Office of Fiscal Analysis
857 shall review the implementation of this act and measure the effects
858 thereof including, but not limited to, the effect on prison population,
859 the cost savings generated and the extent to which such savings are
860 reinvested in improving community safety and ensuring the successful
861 transition of ex-offenders to the community. Not later than January 1,
862 2006, and January 1, 2008, the committee shall report its findings to the
863 joint standing committees of the General Assembly having cognizance
864 of matters relating to appropriations and the budgets of state agencies
865 and to the judiciary.

866 Sec. 26. (*Effective from passage*) (a) Not later than October 15, 2004, the
867 Judicial Branch shall submit to the joint standing committees of the
868 General Assembly having cognizance of matters relating to
869 appropriations and the budgets of state agencies and to the judiciary, a
870 plan to reduce by at least twenty per cent the number of incarcerations
871 resulting from technical violations of conditions of probation, which
872 shall include an estimate of the cost of implementation. In the event
873 that funding is provided to the Judicial Branch for this purpose, the

874 Judicial Branch shall implement the plan and shall, not later than
875 August 15, 2005, report to said committees the results of the
876 implementation of the plan.

877 (b) Not later than October 15, 2004, the Board of Parole and the
878 Department of Correction shall submit to the joint standing
879 committees of the General Assembly having cognizance of matters
880 relating to appropriations and the budgets of state agencies and to the
881 judiciary, a plan to reduce by at least twenty per cent the number of
882 incarcerations resulting from technical violations of conditions of
883 parole, which shall include an estimate of the cost of implementation.
884 In the event that funding is provided to the Board of Parole or
885 Department of Correction for this purpose, the Board of Parole and the
886 Department of Correction shall implement the plan and shall, not later
887 than August 15, 2005, report to said committees the results of the
888 implementation of the plan.

889 Sec. 27. (*Effective from passage*) To implement the provisions of
890 section 54 of public act 03-1 of the June 30 special session, the
891 Department of Correction shall, not later than October 1, 2004, issue a
892 request for proposals for a Community Justice Center. Such request for
893 proposals shall require such facility to have a capacity of not less than
894 five hundred beds, be located in the city of Hartford and be operated
895 by a not-for-profit corporation that is exempt from taxation under
896 Section 501(c)(3) of the Internal Revenue Code of 1986, or any
897 subsequent corresponding internal revenue code of the United States,
898 as from time to time amended, and has experience in operating such a
899 facility. Each corporation submitting a proposal in response to such
900 request for proposals must have a site acceptable for use as a
901 Community Justice Center as of the due date for the submission of
902 such proposal.

903 Sec. 28. (NEW) (*Effective from passage*) (a) The Board of Parole may
904 grant a compassionate parole release to any inmate serving any
905 sentence of imprisonment, except an inmate convicted of a capital
906 felony, as defined in section 53a-54b of the general statutes, if it finds

907 that such inmate (1) is so physically or mentally debilitated,
908 incapacitated or infirm as a result of advanced age or as a result of a
909 condition, disease or syndrome that is not terminal as to be physically
910 incapable of presenting a danger to society, and (2) (A) has served not
911 less than one-half of such inmate's definite or aggregate sentence, or
912 (B) has served not less than one-half of such inmate's remaining
913 definite or aggregate sentence after commutation of the original
914 sentence by the Board of Pardons.

915 (b) Any person granted a compassionate parole release pursuant to
916 this section shall be released subject to such terms and conditions as
917 may be established by the Board of Parole and shall be supervised by
918 the Department of Correction.

919 Sec. 29. (NEW) (*Effective from passage*) (a) The Departments of
920 Correction, Mental Health and Addiction Services and Social Services
921 and the Labor Department, the Board of Parole and the Judicial Branch
922 shall collaborate to develop and implement a comprehensive reentry
923 strategy that provides a continuum of custody, care and control for
924 offenders who are discharged from the custody of the Department of
925 Correction and assists in maintaining the prison population at or
926 under the authorized bed capacity. The reentry strategy shall support
927 the rights of victims, protect the public and promote the successful
928 transition of offenders from incarceration to the community.

929 (b) The success of the reentry strategy shall be measured by: (1) The
930 rates of recidivism and community revictimization, (2) the number of
931 inmates eligible for release on parole, transitional supervision,
932 probation or any other release program, (3) the number of inmates
933 who make the transition from incarceration to the community in
934 compliance with a discharge plan, (4) prison bed capacity ratios, (5) the
935 adequacy of the network of community-based treatment, vocational,
936 educational, supervision and other services and programs, and (6) the
937 reinvestment of any savings achieved through a reduction in prison
938 population into reentry and community-based services and programs.

939 (c) Not later than January 1, 2005, and annually thereafter, the

940 Department of Correction shall submit a report, in accordance with the
941 provisions of section 11-4a of the general statutes, on the success of the
942 reentry strategy based on the measures set forth in subsection (b) of
943 this section to the joint standing committees of the General Assembly
944 having cognizance of matters relating to corrections, public safety and
945 appropriations and the budgets of state agencies.

946 Sec. 30. Subsection (e) of section 18-100 of the general statutes is
947 repealed and the following is substituted in lieu thereof (*Effective from*
948 *passage*):

949 (e) If the Commissioner of Correction deems that the purposes of
950 this section may thus be more effectively carried out, [he] the
951 commissioner may transfer any person from one correctional
952 institution to another or to any public or private nonprofit halfway
953 house, group home or mental health facility [with the concurrence of
954 the warden, superintendent or person in charge of the facility to which
955 said person is being transferred] or, after satisfactory participation in a
956 residential program, to any approved community or private residence.
957 Any inmate so transferred shall remain under the jurisdiction of said
958 commissioner.

959 Sec. 31. Section 18-101a of the general statutes is repealed and the
960 following is substituted in lieu thereof (*Effective from passage*):

961 The Commissioner of Correction at [his] the commissioner's
962 discretion may extend the limits of the place of confinement of [a
963 prisoner] an inmate as to whom there is reasonable belief he or she will
964 honor his or her trust, by authorizing [him] the inmate under
965 prescribed conditions to visit a specifically designated place or places,
966 within or without the state, for periods not exceeding [fifteen] thirty
967 days and return to the same or another institution or facility. Such
968 periods may be renewed at the discretion of the commissioner. Such
969 furlough may be granted only to permit a visit to a dying relative,
970 attendance at the funeral of a relative, the obtaining of medical services
971 not otherwise available, the contacting of prospective employers, or for
972 any compelling reason consistent with rehabilitation. Any inmate who

973 fails to return from furlough as provided in the furlough agreement
 974 shall be guilty of the crime of escape in the first degree.

975 Sec. 32. (*Effective July 1, 2004*) Sections 18-24a, as amended, 18-27, 18-
 976 28 and 18-29 of the general statutes are repealed.

977 Sec. 33. (*Effective from passage*) Section 21a-283a of the general
 978 statutes is repealed.

| | |
|--|---|
| This act shall take effect as follows: | |
| Section 1 | <i>July 1, 2004</i> |
| Sec. 2 | <i>July 1, 2004</i> |
| Sec. 3 | <i>from passage</i> |
| Sec. 4 | <i>from passage</i> |
| Sec. 5 | <i>from passage</i> |
| Sec. 6 | <i>from passage</i> |
| Sec. 7 | <i>from passage</i> |
| Sec. 8 | <i>from passage</i> |
| Sec. 9 | <i>from passage</i> |
| Sec. 10 | <i>from passage</i> |
| Sec. 11 | <i>from passage</i> |
| Sec. 12 | <i>from passage</i> |
| Sec. 13 | <i>from passage</i> |
| Sec. 14 | <i>from passage</i> |
| Sec. 15 | <i>from passage</i> |
| Sec. 16 | <i>from passage</i> |
| Sec. 17 | <i>from passage and applicable to actions or proceedings pending or commenced on or after said date</i> |
| Sec. 18 | <i>from passage</i> |
| Sec. 19 | <i>from passage</i> |
| Sec. 20 | <i>from passage</i> |
| Sec. 21 | <i>from passage</i> |
| Sec. 22 | <i>from passage</i> |
| Sec. 23 | <i>from passage</i> |
| Sec. 24 | <i>from passage</i> |
| Sec. 25 | <i>from passage</i> |
| Sec. 26 | <i>from passage</i> |
| Sec. 27 | <i>from passage</i> |
| Sec. 28 | <i>from passage</i> |
| Sec. 29 | <i>from passage</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:

| Agency Affected | Fund-Effect | FY 05 \$ | FY 06 \$ |
|---------------------------|-----------------|---------------------|---------------------|
| Criminal Justice Agencies | GF - Net Impact | Significant Savings | Significant Savings |

Note: GF=General Fund

Municipal Impact: None

Explanation

Passage of the bill results in significant costs and savings primarily related to increasing the supervision of offenders in the community and decreasing the incarceration of certain offenders. Because annual costs associated with supervising offenders in the community is less expensive than annual incarceration costs, the net impact of the bill would be significant savings. Many of the bill’s provisions seek to increase the pool of those eligible for parole. In addition, the bill establishes various methods of reducing recidivism that would potentially enhance anticipated savings.

The bill makes various policy and statutory changes within the criminal justice system including:

- (1) Creates a new Board of Pardons and Paroles (BPP);
- (2) Modifies standards for special parole, parole releases and eligibility and the administrative parole process;
- (3) Specifies the authority of the Board of Parole and the Department of Correction (DOC) regarding the release of inmates to the community;
- (4) Requires that contracts to send inmates out of state be submitted to the Legislature;

- (5) Increases the daily credit earned by incarcerated inmates toward the payment of a fine or bail;
- (6) Adds the Department of Mental Health and Addiction Services (DMHAS) to the Prison and Jail Overcrowding Commission (PJOC);
- (7) Makes technical changes to provisions and establishes time limitations regarding liens on offenders' inheritances, wages, pensions and property;
- (8) Authorizes the court to divert from mandatory minimum sentences for certain nonviolent crimes based on a showing of good cause;
- (9) Makes technical adjustments to provisions authorizing the court to divert alcohol- and drug-dependent offenders to treatment programs;
- (10) Establishes pre-trial served credit for juvenile offenders;
- (11) Requires the Legislature to track the results of the bill's provisions;
- (12) Requires the Judicial Department, DOC, and BPP to develop plans to reduce their respective technical violators population by 20%;
- (13) Requires DOC request proposals from nonprofit providers for 500-bed Community Justice Center;
- (14) Authorizes "compassionate parole" for certain offenders; and
- (15) Requires various agencies to develop and implement a comprehensive community re-entry strategy for offenders.

FISCAL IMPACT BY SECTION

Section 1 of the bill merges the Board of Pardons and Board of

Parole into the new Board of Pardons and Paroles (BPP).¹ The bill provides that the board would consist of a total of 13 members with 8 being assigned to Parole and 5 assigned to Pardons. The bill also requires the BPP chairman to appoint an executive director and that the board conduct pardons hearings at least four times per year. Passage of these provisions would result in costs of \$100,000 - \$120,000. These costs include \$75,000 - \$85,000 for an executive director and \$25,000 - \$35,000 for additional pardons hearings.²

Section 2, which would not result in any fiscal impact, authorizes a name change throughout the statutes from the Board of Pardons or Board of Parole to the new Board of Pardons and Paroles.

Section 3 of the bill does the following: (1) prohibits parole for those convicted of 1st degree aggravated sexual assault;³ (2) permits parole for certain offenders convicted crimes involving firearms w/in 1,500 feet of school; and (3) establishes a conditional parole release policy.⁴ There are currently 300 offenders in DOC custody that have served 75% of their sentence but have yet to be paroled. If these offenders or some portion were granted conditional parole, there would be a savings to DOC offset by the cost of additional community supervision staff. The annual cost per parolee is about \$5,000 (including community programming) and the annual cost per DOC inmate is \$26,000.⁵ Thus, there is an annual savings of about \$20,000 to supervise an offender in the community as opposed to incarceration.

The average length of all sentences is about 3 years or 36 months. If 100 offenders were conditionally released to parole after completion of 75% of their sentences, there would be a total savings of 27,400 bed

¹ The new board would be within DOC for administrative purposes only.

² The current Board of Pardons meets twice per year and has a budget of \$37,434.

³ There are currently 40 inmates in DOC custody with a primary offense of aggravated sexual assault.

⁴ Under the proposal, inmates eligible for parole after serving 50% of their sentence would be granted a conditional parole release after serving 75% and inmates and inmates eligible for parole after serving 85% of their sentence would be granted a conditional parole release after serving 85%.

⁵ This is based on average parole officer caseload of 60 parolees.

days. The corresponding annual savings would be about \$2 million. Similarly, the annual cost to supervise these offenders on parole would be \$500,000. Hence, there would be a net savings of \$1.5 million.⁶

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.

Section 4 of the bill extends parole to certain offenders (prohibited under current law) including those convicted of manslaughter, 1st degree assault, 1st degree robbery and kidnapping. There are currently about 3,000 offenders (sentenced and unsentenced) in DOC custody that fall into these categories. In addition, the bill permits parole for offenders with more than 3 years remaining on their sentence. To the extent that these provisions result in more offenders being supervised in the community and less incarceration, passage of the bill would result in a net savings.

Section 5, which would not result in any fiscal impact, makes technical adjustments to the special parole laws.

Section 6 of the bill requires the implementation of an administrative hearing process for revocations and rescissions. The Board of Parole takes full panel action on about 2,000 hearings and administratively acts on another 2,000. Approximately, half of the full panel actions involve revocations and rescissions. To the extent that this provision increases the parole grant rate of the board, passage of the bill would result in net savings.⁷

Sections 7 and 8 make technical adjustments to the parole laws that

⁶ Currently, DOC and Parole consider over 3,000 offenders per month for community supervision.

⁷ From February 2003 to February 2004, the average grant rates for full panel hearings and administrative hearings are about 88% and 79% respectively.

are not anticipated to result in any fiscal impact.

Section 9 authorizes DOC to transfer certain offenders who have been granted parole and are within 18 months of their parole release date to approved community programs and residences. Approximately, 1,400 offenders are released to parole per year. If the time spent in a correctional facility were reduced for these offenders as a result of this provision, net savings would result.

Section 10 authorizes pre-trial release of certain offenders charged with a class D felony or misdemeanor to the community. There are currently 18,700 inmates in DOC custody and 23% are unsentenced. Of these 4,300 offenders, there are 1,200 (sentenced and unsentenced) offenders in DOC custody that meet the specifications of this provision. To the extent that this provision results in more offenders being supervised in the community and less incarceration, passage of the bill would result in a net savings.

Section 11 authorizes DOC to enter into a contract to send an additional 2,000 inmates out of state. Passage of the bill could result in annual significant savings of about \$18.25 million. Connecticut currently has a contract with the State of Virginia to house 500 offenders. The cost to house inmates in Virginia is approximately \$25/day less than the cost to house these same offenders in state.

Section 12 and 13 increase daily credit earned by inmates toward fines and bail to the average daily cost of incarceration.⁸ The number of offenders that would be impacted by this provision is unknown at this time. However, to the extent that passage of the bill results in offenders being released to the community earlier than what the current law provides there would be savings. 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 \$75/day, the number of bed days would be 3,118 bed days, which is a

⁸ The current average daily cost of incarceration is \$75 and current law provides that a person receive \$50 per day for time spent in prison.

difference of over 1,559 bed days.⁹

Section 14, which would not result in the need for additional resources, adds DMHAS and the Board of Parole to PJOC.

Section 15 allows the state to place liens on the inheritance assets of persons receiving state aid. Current law provides that 50% of such assets are assignable to the state to recover costs of incarceration. Passage of the bill could result in significant revenue gain.

Sections 16 and 20 make technical changes to provisions regarding disbursement of inmate wages. Passage of these provisions would not result in any fiscal impact.

Sections 17 through 19 and 21 establish certain limits on offenders' property, lawsuit proceeds, inheritances, pensions and estates that the state can place liens on to seek reimbursement for incarceration costs. Passage of the bill would result in a potential revenue loss.

Section 22 authorizes the court to deviate from mandatory minimum sentences for certain nonviolent offenders. To the extent that this provision reduces the amount of time an offender would spend in DOC custody or reduces admissions, passage of the bill would result in significant savings. There are currently about 1,300 offenders serving minimum mandatory sentences and about half are for nonviolent offenses. The magnitude of this section's impact on the prison population is uncertain, pending actions by the court.

Section 23 allows 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).¹⁰ This option

⁹ The average daily inmate cost is \$72/day but when fringe benefit and debt service costs are included, the cost rises to \$96/day.

¹⁰ 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 influence of drugs or alcohol, or who was twice previously ordered to be treated under CGS Section 17a-696.

would be available to the court even where a defendant had been ordered to treatment twice prior. 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 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 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 and community supervision under this provision in the bill. Passage of this provision would result in significant costs.

Section 24 provides that any juvenile who is arrested and held at various state-owned and operated or contracted facilities earn a reduction in any subsequent period of probation imposed that is equal to the number of days spent in said facilities. There are approximately 2,500 juveniles on probation on any day. The number of those who were previously held in secure facilities is unknown at this time, but could be substantial. A decrease to the average length of supervision would reduce the caseload of juvenile probation officers and could result in savings for various contracted services.

Section 25 requires the legislature's Program Review and Investigation Committee and Office of Fiscal Analysis to track the outcomes of the bill. Passage of this provision would not result in the need for additional resources.

Section 26 requires the Judicial Branch, the Board of Parole and DOC to develop plans to reduce the number of incarcerations due to technical violations of probation by 20%. Development of these plans that are to include cost estimates would not result in the need for

additional resources. It should be noted that about 10% of DOC's sentenced population (2,000 inmates) has an offense status of violation of probation. To the extent that the actual implementation and success of the plans submitted reduce the prison population, there would be significant savings.

Section 27 requires DOC to request proposals from nonprofit providers for a 500-bed Community Justice Center in Hartford. To the extent that private for-profit corporations would provide services at a lower rate, passage of this provision would result in costs.

Section 28 authorizes compassionate parole for certain offenders. As this provision is not anticipated to affect many offenders, passage would result in a minimal fiscal impact.

Section 29 requires various agencies to develop and implement comprehensive re-entry strategies. While the precise impact of this provision is uncertain, the implementation of the strategies could result in potential significant costs and savings.

Section 30 authorizes DOC to transfer inmates on work or education release to approved private or community residences after successful participation in a residential program. Passage of this provision is anticipated to have a minimal impact.

Section 31 increases, from 15 to 30 days, the length of time DOC can release an inmate on furlough in certain circumstances. This section is not anticipated to result in any fiscal impact.

Section 32 and 33 repeal certain statutory provisions as relevant to the previous sections of the bill. There is no fiscal impact.

OLR BILL ANALYSIS

sHB 5211

AN ACT CONCERNING PRISON OVERCROWDING**SUMMARY:**

This bill combines the Board of Pardons and Board of Parole into the Board of Pardons and Paroles, allows a court to depart from a mandatory minimum sentence for good cause for a number of crimes, makes a number of changes related to parole, allows the board and Department of Correction (DOC) to transfer certain inmates to facilities other than prisons under certain circumstances, and alters a number of release provisions that apply to parole and DOC.

The bill sets rules for Board of Pardons and Paroles membership and hearings, makes the board chairman the executive and administrative head of the board (the DOC commissioner currently heads the Board of Parole), creates an executive director who has many of the responsibilities currently assigned to the DOC commissioner, and requires certain regulations.

The bill makes a number of changes regarding parole. It:

1. requires a parole hearing for someone who is (a) eligible for release after serving 50% of his sentence but has not been released after serving 75% of his sentence or (b) eligible for release after serving 85% of his sentence when he reaches the 85% mark;
2. changes the eligibility for administrative parole;
3. allows the board chairman to transfer inmates granted parole to a halfway house, group home, mental health facility, or an approved community or private residence within 18 months of their parole release date;
4. allows an inmate to receive a compassionate parole release under certain circumstances;
5. requires a board employee to conduct parole revocation and

recission hearings;

6. requires the board chairman and executive director to consult with DOC to develop a parole orientation program;
7. requires the board chairman and executive director to create an incremental sanctions system for parole violations; and
8. requires a hearing on a violation of special parole.

The bill requires development of (1) plans to reduce the number of incarcerations due to technical violations of the conditions of probation or parole by at least 20% and (2) a comprehensive reentry strategy.

The bill requires the board to create an administrative pardons process for certain people.

The bill makes a number of changes regarding DOC's options with inmates. It:

1. allows DOC, unless the court orders otherwise, to release people charged only with a misdemeanor or most class D felonies who are committed by the court to DOC to a DOC-approved residence;
2. requires DOC to issue a request for proposals for a community justice center in Hartford;
3. authorizes DOC to transfer an inmate on work or education release to an approved community or private residence if he already participated satisfactorily in a residential program;
4. increases, from 15 to 30 days, the length of time DOC can release an inmate on furlough to visit a dying relative, attend a relative's funeral, get otherwise unavailable medical services, contact prospective employers, or for other compelling reasons consistent with rehabilitation; and
5. requires DOC, which is authorized to contract to send an additional 2,000 inmates out-of-state, to submit that contract to the Appropriations and Judiciary committees for review and comment before entering the contract.

The bill also:

1. allows someone to participate in the alcohol and drug dependency diversion program twice, instead of once, if he is otherwise eligible;
2. changes a number of provisions on recovering the costs of an inmate's incarceration;
3. changes the credit that a person receives toward payment of a fine from \$50 a day to the average daily cost of incarceration when he is held (a) only for payment of a fine or (b) in pre-sentence confinement; and
4. gives a child arrested and held in a juvenile matter credit toward his probation sentence for time spent in certain facilities.

The bill requires staff from the Legislative Program Review and Investigations Committee and Office of Fiscal Analysis to review the bill's implementation and measure its effects. This includes studying the (1) effect on the prison population and (2) cost savings and the extent they are reinvested in improving community safety and ensuring successful transition of ex-offenders to the community. The committee must report its findings to the Appropriations and Judiciary committees by January 1, 2006 and 2008.

The bill makes a number of other minor and technical changes.

EFFECTIVE DATE: Upon passage, except the provisions on creating the Board of Pardons and Paroles, administrative pardons regulations, incremental sanctions system, and parole orientation program are effective July 1, 2004.

BOARD OF PARDONS AND PAROLES (§§ 1-2, 32)

Under current law, the Board of Pardons and Board of Parole are part DOC. The bill combines these boards into the Board of Pardons and Paroles. It makes the new board the successor to the Board of Pardons and Board of Parole, substitutes the new board whenever the others are used in the statutes or 2003 and 2004 public acts, and requires the Legislative Commissioners' Office to make necessary changes.

Beginning October 1, 2004, the new board consists of 13 members

appointed by the governor with the consent of either house of the General Assembly (under current law, the Board of Parole has 15 members and the Board of Pardons has five members appointed in this manner).

The bill ends the terms of members of the Parole Board on September 30, 2004. New members serve for the length of the governor's term. Under current law, the Parole Board chairman and vice-chairman serve for the length of the governor's term and until a successor is appointed, members serve four-year terms, and Pardons Board members serve six years.

Like the Parole Board members under current law, members of the new board are paid \$110 for each day spent performing their duties and receive necessary expenses.

The bill requires the governor to appoint the chairman from among the members. This person must be qualified by education, experience, and training in administering community corrections, parole, or pardons. It requires the chairman to work full time at his duties and be paid as determined by the Department of Administrative Services commissioner. This requirement currently applies to the Parole Board chairman.

Hearings

The bill authorizes the chairman to sit on both pardons and parole release panels. He must assign seven members exclusively to parole release hearings and five to pardons hearings. Except for the chairman, no member assigned to one type of hearing can later be assigned to the other.

The bill requires the chairman or his designee and two members to conduct all parole hearings and approve or deny all parole release, revocation, or rescission recommendations from a board employee. Pardons panels consist of three members. The chairman can be one of the members, but he must be on the panel for hearings on commutation of the death penalty.

The bill requires the board to hold a pardons hearing at least every three months. The hearings must be in various geographic areas of the state, and the board cannot hold hearings in or on correctional facility

grounds unless solely for the benefit of applicants incarcerated at the time of the hearing.

The bill repeals provisions on appointing members of the Board of Pardons, placing the board in DOC, requiring four out of the five members to approve a decision, authorizing the board to compel the attendance of witnesses, giving the secretary the power to issue process to command DOC officials to bring prisoners before the board, and certain other board procedures.

Chairman

The bill makes the chairman of the Board of Pardons and Paroles, instead of the DOC commissioner, the executive and administrative head of the board and requires him to:

1. oversee the board's administrative affairs;
2. adopt policies for all areas of pardons and paroles, including granting pardons, commutations or releases including commutations of the death penalty; risk-based structured decision making; and release criteria (current law requires the DOC commissioner to set policies in all areas of parole including decision making, release criteria, and supervision standards);
3. consult with DOC on common issues, including prison overcrowding;
4. consult with the Judicial Branch on common issues, including community supervision; and
5. sign and issue subpoenas to compel witnesses to attend and testify at parole hearings.

Executive Director

The bill requires the chairman to appoint an executive director who has many of the functions of the DOC commissioner under current law. The executive director must:

1. direct and supervise all administrative affairs;

2. prepare the budget and annual operation plan;
3. assign staff to administrative reviews;
4. organize pardons and parole release hearing calendars;
5. implement a uniform case filing and processing system; and
6. create staff and member development, training, and education programs.

Regulations

The bill requires the chairman, in consultation with the executive director, to adopt regulations (1) for parole revocation and rescission hearings that include due process requirements and (2) requiring board members in pardons hearings to issue written statements of the reasons for rejecting a pardon application. The bill requires the chairman to adopt regulations, rather than policy, to administer the Interstate Parole Compact.

DEPARTURE FROM MANDATORY MINIMUM SENTENCES (§§ 22, 33)

The bill allows the court to depart from a required mandatory minimum sentence, if the defendant proves good cause, for the following crimes:

1. arson murder (penalty-60 years) (CGS § 53a-54d);
2. 2nd degree larceny (mandatory minimum (m.m.) 2 years if property is “taken” from elderly, blind, disabled, pregnant, or mentally retarded victim) (see 53a-60b and 53a-123);
3. 1st degree hindering prosecution (m.m. five years) (53a-165aa);
4. selling or transporting an assault weapon (m.m. 2 years, 6 years if sale is to a minor) (53-202b);
5. illegal sale or transfer of handgun to minor (m.m. one year) (29-34);
6. 2nd degree assault with a firearm (m.m. one year) (53a-60a);

7. 2nd degree assault or larceny of elderly, blind, disabled, pregnant, or mentally retarded person (m.m. two years) (53a-60b);
8. 3rd degree burglary with a firearm (m.m. one year) (53a-103a);
9. criminal use of a firearm (m.m. five years) (53a-216);
10. criminal possession of a firearm or electronic defense weapon (m.m. two years) (53a-217);
11. possession of an assault weapon (m.m. 1 year) (53-202c);
12. 3rd degree assault with a deadly weapon (m.m. one year) (53a-61);
13. driving during license suspension for DWI or DWI related offenses (m.m. 30 days unless mitigating circumstance) (14-215(c));
14. first DWI conviction (48 hour m.m. if not given community service) (14-227a(g));
15. subsequent DWI convictions (m.m. 120 days and one year) (14-227a(g));
16. using person under 18 to sell drugs (m.m. three years) (21a-278a(c));
17. carrying handgun without a permit (m.m. one year if no mitigating circumstances) (29-37(b)); and
18. persistent felony offender (m.m. three years) (53a-40(m)).

The bill requires the court to state in open court the reasons for the sentence imposed and for departing from the mandatory minimum.

Certain Drug Crimes

The law already allows a court to depart from a mandatory minimum for good cause under certain circumstances for the following crimes:

1. manufacture or sale of drugs and related crimes (21a-278);
2. manufacture or sale of drugs within 1,500 feet of elementary or

high schools, public housing, or day care centers (21a-278a(b));

3. use, possession, or delivery of drug paraphernalia within 1,500 feet of a school by a non-student (21a-267(c)); and
4. drug possession within 1,500 feet of a school or day care center (21a-279(d)).

The bill eliminates the restriction that allowed a defendant to receive a departure from a mandatory minimum only once. By law, for these crimes, the court can depart from the mandatory minimum only if it finds that in committing the offense the person (1) did not use or attempt or threaten to use physical force; (2) did not cause physical or serious physical injury to another person; and (3) was unarmed and did not use, display, or represent that he had a deadly weapon (such as a gun or knife) or other instrument that could cause death or serious injury. The court must state in open court the reasons for imposing the sentence and departing from the mandatory minimum.

PAROLE CHANGES

Parole Supervision and Required Parole Hearings (§ 3)

By law, someone is eligible for parole after serving 50% of his sentence unless he committed (1) a crime where the underlying facts and circumstances involved the use, attempted use, or threatened use of force, which makes him eligible only after serving 85% of the sentence or (2) certain serious crimes that are ineligible for parole.

The bill requires anyone released under this provision to remain under DOC custody and be subject to its supervision during the parole period.

It requires a hearing to determine the suitability for parole release of inmates (1) who are eligible for parole after serving 50% of their sentences but who have not been released to parole by the board after they have served 75% of their sentences and (2) who are eligible for parole after serving 85% of their sentence when they reach the 85% mark.

Administrative Parole Eligibility (§ 4)

The bill makes all inmates subject to the 50% rule eligible for parole without a hearing and excludes all others. By law, under this procedure, a board employee must review the inmate's case and recommend parole, and at least two board members must approve it. The bill:

1. makes all those subject to the 85% rule ineligible,
2. removes the prohibition for using this procedure for inmates who have more than three years left on their sentences, and
3. removes the prohibition for using this procedure for inmates convicted of certain crimes (but many of these crimes are subject to the 85% rule and would remain ineligible for this procedure under the bill).

The crimes are: manslaughter in the 1st degree; manslaughter in the 1st degree with a firearm; manslaughter in the 2nd degree; manslaughter in the 2nd degree with a firearm; manslaughter in the 2nd degree with a motor vehicle; misconduct with a motor vehicle; criminally negligent homicide; 1st degree assault; 1st degree assault of an elderly, blind, disabled, pregnant, or mentally retarded person; 1st degree sexual assault; 1st degree aggravated sexual assault; sexual assault in spousal or cohabiting relationship; kidnapping in the 1st degree; kidnapping in the 1st degree with a firearm; 1st degree robbery; and employing a minor in an obscene performance.

The bill also allows the board's chairman to require a parole hearing if he deems it necessary. As under current law, a hearing must be held at a victim's request.

As under current law, a person with six months or less left in his sentence who agrees to certain conditions under a separate parole eligibility statute can use this procedure.

Transfer to Halfway Houses and Other Facilities (§ 9)

The bill allows the board chairman to transfer inmates granted parole who are within 18 months of their parole release date to a public or private nonprofit halfway house, group home, mental health facility, or approved community or private residence. Someone released under this provision is transferred to the board's custody but DOC

remains responsible for supervising him. He may be returned to DOC custody at any time.

Compassionate Parole Release (§ 28)

The bill allows the Board of Parole to grant an inmate, other than one convicted of a capital felony, a compassionate parole release if he

1. is physically incapable of presenting a danger to society because he is physically or mentally debilitated, incapacitated or infirm because of advanced age, or has a non-terminal condition, disease, or syndrome and
2. has served at least half of his sentence or half of his remaining sentence after the board commuted his original sentence.

A person granted a release is subject to terms and conditions set by the board and is supervised by DOC.

Parole Hearings to Revoke or Rescind Parole (§ 6)

The bill requires a board employee to conduct all parole revocation and rescission hearings. To revoke or rescind parole or special parole, the bill requires the employee to recommend revocation or recession after a hearing and at least two members of a panel must approve it.

Parole Eligibility (§ 3)

The bill allows people convicted of an offense committed with a firearm in, on, or within 1,500 feet of elementary or secondary school grounds to be eligible for parole. (People convicted of these crimes would be subject to the existing parole eligibility requirements and likely would be eligible after serving 85% of their sentence because use of a firearm would be considered use, attempted use, or threatened use of force.) The bill makes someone convicted of 1st degree aggravated sexual assault ineligible for parole.

The bill deletes a requirement that the Board of Parole report monthly to the Office of Policy and Management and the Appropriations, Judiciary, and Public Safety committees on the number of inmates eligible for parole who completed 75% of their sentence in the preceding month and were not approved for parole.

Parole Orientation Program (§ 1(j)(1))

The bill requires the board chairman and executive director, in consultation with DOC, to develop a parole orientation program for inmates eligible for parole when they are transferred to DOC custody. The program must include general legal information and policies on parole release, calculating time served, conditions of release, supervision practices, revocation and rescission policies, and procedures for administrative review and panel hearings. It must include any other relevant information to prepare inmates for parole.

Incremental Sanctions for Parole Violations (§ 1(j)(2))

The bill requires the chairman and executive director to create an incremental sanctions system for parole violations that includes re-incarceration based on the type, severity, and frequency of the violation and specific periods of incarceration for certain violations.

Placement in Any DOC Correctional Institution (§ 8)

The bill allows a paroled inmate returned to DOC custody to be placed in any correctional institution and not just the one he was paroled from. This also applies to someone on special parole.

Special Parole (§ 5)

By law, when a person leaves prison and serves a period of special parole, he is transferred from DOC custody to the jurisdiction of the Parole Board chairman. The bill makes DOC responsible for supervising the person during the special parole period.

Under the bill, when a parole officer determines that someone violated the conditions of his special parole, the board must hold a hearing on the charge without unnecessary delay. The parolee must be told of the manner of the alleged violation and be advised of his due process rights. Once a violation is established, the bill authorizes the board to (1) continue the special parole, (2) modify or enlarge its conditions, or (3) revoke the sentence of special parole.

The bill requires the chairman to issue an order to commit the person to DOC custody when the board revokes his special parole. The commitment period cannot exceed the unexpired portion of the special

parole, and the board can allow the person to be released again on special parole at any time without a court order.

PLANS TO REDUCE INCARCERATION FOR TECHNICAL VIOLATIONS OF CONDITIONS OF PROBATION AND PAROLE (§ 26)

The bill requires:

1. the Judicial Branch to develop a plan to reduce the number of incarcerations due to technical violations of the conditions of probation by at least 20%, and
2. the Board of Parole and DOC to develop a plan to reduce the number of incarcerations due to technical violations of the conditions of parole by at least 20%.

The plans must include cost estimates. The Judicial Branch and Parole Board and DOC must submit their plans to the Appropriations and Judiciary committees by October 15, 2004 and, if they receive funding, implement them and report again to the committees by August 15, 2005.

REENTRY STRATEGY (§ 29)

The bill requires the Parole Board, Judicial Branch, and the departments of Correction, Mental Health and Addiction Services, Social Services, and Labor to collaborate to develop and implement a comprehensive reentry strategy. The strategy must:

1. provide a continuum of custody, care, and control for offenders discharged from DOC custody;
2. assist in maintaining the prison population at or below authorized bed capacity;
3. support victims' rights;
4. protect the public; and
5. promote successful transition from incarceration to the community.

The bill requires DOC to report annually on the success of the reentry

strategy to the Appropriations, Judiciary, and Public Safety committees beginning January 1, 2005. It requires the strategy's success to be measured by the:

1. recidivism and community re-victimization rates;
2. number of inmates eligible for release on parole, transitional supervision, probation, or other release programs;
3. number of inmates who transition from incarceration to the community complying with a discharge plan;
4. prison bed capacity ratios;
5. adequacy of the network of community-based treatment, vocational, educational, supervision, and other services and programs; and
6. reinvestment of any savings from reducing the prison population into reentry and community-based services and programs.

ADMINISTRATIVE PARDONS REGULATIONS (§ 1(H)(2))

The bill requires the board chairman, in consultation with the executive director, to adopt regulations to establish an administrative pardons process that allows people convicted of a crime to receive a pardon without a hearing, unless a victim requests one, if the person was:

1. convicted of a misdemeanor and (a) it is no longer a crime, (b) he was under age 21 at the time of the conviction and has no convictions during the 10 years before receiving the pardon, or (c) he was convicted before pretrial programs were created that the person would have been eligible for and likely participated in; or
2. convicted of (a) illegal manufacture, distribution, sale, prescription, or dispensing drugs; (b) illegal manufacture, distribution, sale, prescription, or dispensing drugs by a non-drug-dependent person; or (c) illegal possession of drugs; and he has no convictions during the five years before receiving the pardon and it is at least five years since the person's conviction and release from prison.

The pretrial programs are the alcohol and drug dependency program, pretrial family violence education program, alternative incarceration program, community service labor program, accelerated rehabilitation, pretrial alcohol education program, pretrial drug education program, and pretrial school violence prevention program.

DOC OPTIONS

Release by DOC of Pre-Conviction Inmates (§ 10)

The bill allows DOC to release people committed to its custody by the court to a DOC-approved residence when they are charged only with a misdemeanor or most class D felonies. This provision does not apply to the following class D felonies: 2nd degree assault with a firearm; 2nd degree assault of an elderly, blind, disabled, pregnant, or mentally retarded person (with or without a firearm); 2nd degree assault with a motor vehicle; 3rd degree sexual assault; 4th degree sexual assault when the victim is under age 16; or 1st degree stalking. DOC cannot exercise this authority if the court orders otherwise.

The bill allows DOC to impose conditions on the person's release including participating in a substance abuse treatment program, electronic monitoring, or use of any other monitoring technology or services. DOC retains jurisdiction and supervision of the person and can return him to prison for violating the conditions.

Community Justice Center Request for Proposals (§ 27)

The budget act (PA 03-1, June 30 Special Session) transfers \$2,000,000 from the appropriation to DOC for Personal Services to its appropriation for Community Justice Centers during FY 2004-05.

To implement this provision, the bill requires DOC, by October 1, 2004, to issue a request for proposals for a community justice center in Hartford with at least 500 beds to be operated by a nonprofit corporation that (1) has experience in operating these facilities and (2) is exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code. Corporations submitting proposals must have an acceptable site for the center as of the due date for submitting proposals.

Work and Education Release (§ 30)

The bill authorizes DOC to transfer an inmate on work or education release to an approved community or private residence if he already participated satisfactorily in a residential program. The law allows DOC to transfer someone to a different correctional institution, public or private nonprofit halfway house, group home, or mental health facility as part of this program. The bill eliminates the requirement that the warden, superintendent, or other person in charge of a facility concur with DOC's decision before transferring a person to that facility. As under current law, a transferred inmate remains under DOC jurisdiction.

Furloughs (§ 31)

The bill increases, from 15 to 30 days, the length of time DOC can release an inmate on furlough to visit a dying relative, attend a relative's funeral, get otherwise unavailable medical services, contact prospective employers, or for other compelling reasons consistent with rehabilitation.

By law, DOC must have a reasonable belief that the inmate will honor the trust, must specifically designate the place to be visited, and prescribe conditions. DOC has discretion to renew a furlough. By law, failure to return from a furlough is 1st degree escape, a class C felony punishable by one to 10 years in prison, a fine of up to \$10,000, or both.

Inmates Out-of-State (§ 11)

The law authorizes the DOC commissioner to enter into contracts with government or private vendors to supervise up to 500 inmates out of state and, during the 2003-05 bienium, to enter into contracts with government or private vendors to supervise up to 2,000 additional inmates out of state. The law also authorizes the commissioner to enter into a contract for some or all of the additional 2,000 inmates with the Virginia Department of Corrections (which has an existing contract to supervise 500 inmates) without following the competitive bidding or negotiation requirements.

The bill requires the commissioner to submit the proposed contracts for the additional 2,000 inmates to the Appropriations and Judiciary committees for review and comment before entering the contract.

ELIGIBILITY FOR ALCOHOL AND DRUG DEPENDENCY DIVERSION PROGRAM (§ 23)

The law authorizes courts to order drug or alcohol dependent offenders into treatment in lieu of prosecution or incarceration. Under current law, anyone who was previously ordered treated under this program or under earlier versions of this program is ineligible. The bill instead makes someone ineligible if he twice used one of these programs. As under current law, the court can waive the eligibility rules.

By law, the pretrial diversion aspect of this program covers all drug sale and possession crimes. A person charged with driving under the influence; assault in the second degree with a motor vehicle; or a class A, B, or C felony is not eligible for suspended prosecution and treatment.

RECOVERING COSTS OF INCARCERATION

Property Subject to Claim (§ 17)

The law gives the state a claim for the costs of an inmate's incarceration on his estate, inheritance, and proceeds won in a lawsuit.

The bill gives the state a claim against any property owned by an inmate except:

1. property that is statutorily exempt from execution to satisfy court judgments and exempt property of a farm partnership;
2. money from a contract for reenacting the inmate's violent crime in various media (such as movies and books) or from the expression of the person's thoughts or feelings about the crime which is required to be paid to the Office of Victim Services; and
3. property acquired by the inmate after he is released from incarceration

But the state's claim does apply to lottery and pari-mutuel winnings after the person's release from prison; his estate, inheritance, and proceeds won in a law suit after his release from prison; and certain federal, state, or municipal pension, annuity, insurance contracts, and similar items that are for government employee retirement benefits (subject to the rights of an alternate payee under a qualified domestic relations order) (§ 21 also makes a technical change regarding this).

The bill authorizes the attorney general to bring an action to enforce the claim in Superior Court in the Hartford judicial district at the DOC commissioner's request. The action must be brought within two years of the inmate's release from prison or within two years of his death if he dies while in DOC custody. This restriction does not apply to property that is fraudulently concealed.

The bill's provisions on property subject to state claim apply to actions and proceedings pending or commencing on or after its effective date.

Limitation on Claims (§§ 18-19)

The bill limits the state's claim to an inmate's estate, lawsuit proceeds, and inheritance to (1) the estate of someone who dies within 20 years of his release from incarceration, (2) lawsuits brought within 20 years of release, and (3) inheritance received within 20 years of release.

Employment and Services Performed by Inmates (§§ 20, 16)

By law, DOC can allow inmates to participate in a labor program with private industry and work-release and education-release programs. Any compensation inmates earn must be paid to DOC and put into an account for the inmate. The money can be used for one of eight prioritized purposes. The bill changes the eighth priority from paying the inmate's costs of board as determined by the DOC commissioner to the inmate's cost of incarceration as determined by the statutes and regulations. Similarly, it requires a self-employed inmate to pay the costs of incarceration rather than the costs of his board.

By law, compensation rates are set for services performed by inmates for the state. The money they earn is paid to them on discharge unless the prison warden or administrator pays it for one of nine prioritized purposes. The bill changes the eighth priority from paying the inmate's costs of board as determined by the DOC commissioner to the inmate's cost of incarceration as determined by the statutes and regulations.

CREDIT FOR FINES (§§ 12-13)

The bill changes the credit that a person receives for time spent in prison for a crime when he is held in prison only for payment of a fine. It changes the credit from \$50 a day to a rate equal to the average daily

cost of incarceration, as determined by the DOC commissioner. By law, the person is released when the amount of the credit equals the amount of the fine.

The bill changes the credit that a person receives for time spent in pre-sentence confinement (confinement by order or because he was denied or could not obtain bail) toward payment of a fine imposed after conviction. The bill changes the credit from \$50 per day to a rate equal to the average daily cost of incarceration, as determined by the DOC commissioner.

JUVENILES' CREDIT FOR PRE-SENTENCE CONFINEMENT (§ 24)

The bill gives a child arrested and held in certain facilities before disposition of his juvenile matter, credit toward his period of probation (including any extensions) for each day spent in the facility if he is later sentenced to probation after conviction as a delinquent in Superior Court. This applies to time spent in a detention center, alternative detention center, police station, or courthouse lock-up.

OTHER PROVISIONS

Prison and Jail Overcrowding Commission Membership (§ 14)

The bill adds the Mental Health and Addiction Services commissioner, or his designee, to the membership of the Commission on Prison and Jail Overcrowding. It also adds the Board of Parole chairman, or his designee, to the commission. The Board of Pardons and Paroles chairman would become a member when that board is created. The bill also allows the DOC and Public Safety commissioners to designate someone to serve in their place on the commission.

As under current law, the commission also consists of the chief court administrator (or his designee), chief state's attorney (or his designee), chief public defender (or his designee), Court Support Services executive director or another designee of the chief court administrator, and the following gubernatorial appointments: three government officials, a police chief, two people representing offender and victim services in the private community, and two members of the public.

Commitment to DOC by Board Chairman (§ 7)

The bill requires the Parole Board chairman (and the Pardons and

Paroles Board chairman when that board is created) to sign an order to commit a person on special parole to a correctional institution.

Claims on Inheritance for State Aid (§ 15)

By law, when a beneficiary of aid under the State Supplement, Medical Assistance, Aid to Families with Dependent Children, Temporary Family Assistance, or State Administered General Assistance programs receives an inheritance, 50% of the assets payable to the beneficiary up to the amount of the assistance paid is assignable to the state.

The bill also gives the state a lien on the assets. As with assignments, the bill requires the probate court to accept notice of the lien if the Department of Administrative Services commissioner files it with the court before distributing the inheritance and the court distributes assets accordingly.

BACKGROUND

Work and Education Release Program

The work and education release law allows DOC to arrange for continued employment of an inmate who is self-employed or regularly employed. DOC can also attempt to secure suitable employment or attendance at an educational institution. The prisoner's employment must (1) not displace employed workers, involve skills or trades that have a surplus of labor in the locality, or impair existing contract and (2) have pay and employment conditions that are not less than those for similar work at the locality.

Commission on Prison and Jail Overcrowding

The commission (1) develops and recommends policies to prevent prison overcrowding, (2) examines the impact of statutes and administrative policies on overcrowding and recommends legislation, and (3) annually prepares and distributes a comprehensive state criminal justice plan for preventing overcrowding.

Related Bills

HB 5598 (File 226) contains the same provisions on inmate work and education release. HB 5599 (File 227) contains the same provisions on furloughs for prisoners. sHB 5668 (File 501) contains provisions on the

merger of the Board of Parole and DOC; transfers board functions, powers, duties, and employees to DOC; and transfers all parolees to DOC custody.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute Change of Reference

Yea 30 Nay 8

Appropriations Committee

Joint Favorable Substitute

Yea 47 Nay 2