



Senate

General Assembly

File No. 465

February Session, 2004

Substitute Senate Bill No. 309

Senate, April 6, 2004

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING YOUTHFUL OFFENDER PROCEEDINGS, RECORDS AND VICTIMS.

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

1 Section 1. Section 54-76h of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2004*):

3 (a) All of the proceedings, except proceedings on the motion under
4 section 54-76c, had under the provisions of sections 54-76b to 54-76n,
5 inclusive, shall be private and shall be conducted in such parts of the
6 courthouse or the building wherein court is located as shall be separate
7 and apart from the other parts of the court which are then being held
8 for proceedings pertaining to adults charged with crimes. If [such] the
9 defendant is committed while [such] the examination and
10 investigation under said sections is pending, before trial, during trial
11 or after judgment and before sentence, those persons in charge of the
12 place of detention shall segregate [such] the defendant, to the extent of
13 their facilities, from defendants over the age of eighteen years charged

14 with crime.

15 (b) In a proceeding under sections 54-76b to 54-76n, inclusive, the
16 court shall not exclude any victim from such proceeding or any
17 portion thereof unless, after hearing from the parties and the victim
18 and for good cause shown, which shall be clearly and specifically
19 stated on the record, the court orders otherwise. For the purposes of
20 this subsection, "victim" means a person who is the victim of a crime
21 for which a youth is charged, a parent or guardian of such person, the
22 legal representative of such person or an advocate appointed for such
23 person pursuant to section 54-221.

24 Sec. 2. Subsection (b) of section 54-76l of the general statutes is
25 repealed and the following is substituted in lieu thereof (*Effective*
26 *October 1, 2004*):

27 (b) The records of any youth adjudged a youthful offender on or
28 after October 1, 1995, or any part thereof, may be disclosed to and
29 between individuals and agencies, and employees of such agencies,
30 providing services directly to the youth, including law enforcement
31 officials, state and federal prosecutorial officials, school officials in
32 accordance with section 10-233h, court officials, the Division of
33 Criminal Justice, the Court Support Services Division [,] and the Board
34 of Parole. [and] Such records shall also be available to an advocate
35 appointed pursuant to section 54-221 for a victim of a crime committed
36 by the youth and to the Victim Advocate, in the performance of his or
37 her responsibilities under section 46a-13c, when requested by such
38 victim. Such records shall also be available to the attorney representing
39 the youth, in any proceedings in which such records are relevant, to
40 the parents or guardian of such youth, until such time as the youth
41 reaches the age of majority or is emancipated, and to the youth upon
42 his or her emancipation or attainment of the age of majority, provided
43 proof of the identity of such youth is submitted in accordance with
44 guidelines prescribed by the Chief Court Administrator. Such records
45 disclosed pursuant to this subsection shall not be further disclosed.

46 Sec. 3. (NEW) (*Effective October 1, 2004*) In a proceeding under

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, Div.	GF - Cost	98,615	123,487
Comptroller Misc. Accounts (Fringe Benefits)	GF - Cost	12,575	37,975
Total State Cost	GF - Cost	111,190	161,462

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill requires state prosecutors to notify all victims of youthful offenders by certified mail, return receipt requested, prior to the acceptance of a plea or imposition of sentence. There are about 8,250 such cases annually. The associated postage cost is \$36,465. The Division of Criminal Justice would require additional clerical staff to coordinate victim notifications among the twenty Geographical Area courts that hear these types of cases. It is anticipated that the Division would need two Secretaries at an annual cost of \$124,997 including salaries, other expenses and fringe benefits.¹ In addition, the Division would incur a one-time cost of \$6,000 for equipment in FY 05.

¹ The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The total fringe benefit reimbursement rate as a percentage of payroll is 45.82%, effective July 1, 2003. However, first year fringe benefit costs for new positions do not include pension costs lowering the rate to 20.23% in FY 05. The state's pension contribution is based upon the prior year's certification by the actuary for the State Employees Retirement System.

OLR Bill Analysis

sSB 309

**AN ACT CONCERNING YOUTHFUL OFFENDER PROCEEDINGS,
RECORDS AND VICTIMS****SUMMARY:**

Article 29 of the Connecticut Constitution gives crime victims the right, among others, to (1) attend all court proceedings, including the trial, unless the court determines that their impending trial testimony would be affected materially if they heard other testimony; (2) make a statement to the court at sentencing; and (3) object to or support any proposed plea agreement and make a statement to the court before it is accepted. But the statutes make all proceedings involving a youthful offender (YO) private, except for the initial motion asking the court to determine if the offender should be designated as a YO.

This bill (1) opens all YO proceedings to victims and their representatives, except under certain circumstances; (2) requires victims to be notified of their right to make a statement before a YO is sentenced or his plea agreement is accepted and requires the court to permit such statements in person or in writing; (3) requires YO case records be made available to the Victim Advocate's Office at the victim's request; and (4) requires, rather than permits, these records be available to a court-appointed victim advocate.

EFFECTIVE DATE: October 1, 2004

OPENING PROCEEDINGS TO VICTIMS

The bill prohibits a court from excluding a crime victim from any YO proceeding or any part of one unless, after hearing from the parties and the victim, it finds good cause to do so. If it excludes the victim, it must state the cause clearly and specifically on the record.

The bill defines "victim" for this purpose, as the victim of the crime for which the youth is charged; the person's parent, guardian, or legal representative; or a court-appointed advocate. The statute governing

victim services defines a victim as the person injured or killed, while the general statutory definition encompasses the victim or, if he is a minor, incompetent person, or homicide victim, his family members.

STATEMENTS AT SENTENCING OR PLEA AGREEMENT PROCEEDINGS

The bill requires the state's attorney (or assistant or deputy state's attorney) in charge of a YO case to notify the crime victim of any proceeding concerning a plea agreement or sentencing. The written notice must contain the proceeding's date, time, and location and inform the victim of his right to submit a written statement or appear in court to make a statement for the record. It must be sent by certified mail, return receipt requested. (The bill does not state how long before the proceeding the notice must be sent.) Before the court imposes a sentence or accepts a plea agreement, the bill requires the court to permit the victim to submit or present such a statement.

ACCESS TO YO RECORDS

The bill requires the records of a YO case to be available, at the victim's request, to (1) the Victim Advocate's Office in the performance of its statutory duties and (2) a court-appointed advocate. Under current law, these records can be disclosed to the latter whether or not the victim asks, but are not available or disclosable to the Victim Advocate's office. Once disclosed, the records may not be disclosed further.

By law, YO records are available to a victim to the same extent the records of other criminal cases are available to victims.

BACKGROUND

Youthful Offenders

A YO is a 16- or 17-year-old who (1) has not previously been (a) convicted of a felony, (b) adjudged to be a serious or serious repeat juvenile offender, or (c) permitted to take accelerated rehabilitation and (2) has been charged with any crime other than:

1. a class A felony,
2. risk of injury to a minor involving contact with the intimate parts of

a minor under age 16, or

3. various degrees of sexual assault.

If the court grants YO status, the information and proceedings are confidential and do not become a part of the person's criminal record.

Court-Appointed Victim Advocates

If a victim agrees, the law allows a court to appoint any appropriate person to act as an advocate for him. These advocates provide initial screening of personal injury cases, prepare victim statements for placement in court files, provide information needed for more effective case processing, provide information and advice to individual victims, direct victims to services, coordinate victims' applications to the Victim Advocate's Office, and help victims process claims for restitution.

COMMITTEE ACTION

Select Committee on Children

Joint Favorable Substitute Change of Reference

Yea 13 Nay 0

Judiciary Committee

Joint Favorable Substitute

Yea 42 Nay 0