



General Assembly

February Session, 2004

Bill No. 5043

LCO No. 473

*00473 _____ *

Referred to Committee on Judiciary

Introduced by:

REP. WARD, 86th Dist.

SEN. DELUCA, 32nd Dist.

**AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET REGARDING
THE JUDICIAL DEPARTMENT, THE DEPARTMENT OF CORRECTION,
MEDICAL MALPRACTICE REFORM, THE RECOVERY OF STATE
ASSISTANCE AND THE PREVENTION OF INTERNET CHILD
EXPLOITATION.**

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

1 Section 1. Section 18-86b of the general statutes, as amended by
2 section 156 of public act 03-6 of the June 30 special session, is repealed
3 and the following is substituted in lieu thereof (*Effective from passage*):

4 (a) Notwithstanding the provisions of sections 18-105 to 18-107,
5 inclusive, the Commissioner of Correction is authorized to improve the
6 operation of the state's correctional facilities by entering into contracts
7 with any governmental or private vendor for supervision of not more
8 than two thousand five hundred inmates outside the state. Any such
9 governmental or private vendor shall agree to be bound by the
10 provisions of the Interstate Corrections Compact, and any
11 governmental or privately-operated facility to which state inmates are
12 transferred pursuant to a contract under this subsection shall be

13 located in a state which has enacted and entered into the Interstate
14 Corrections Compact.

15 [(b) (1) Notwithstanding the provisions of sections 18-105 to 18-107,
16 inclusive, during the fiscal years ending June 30, 2004, and June 30,
17 2005, the Commissioner of Correction is authorized to improve the
18 operation of the state's correctional facilities by entering into contracts
19 in accordance with this subsection with any governmental or private
20 vendor for the supervision of not more than an additional two
21 thousand inmates outside the state.]

22 [(2)] (b) If the governmental vendor with which the commissioner
23 has a contract under subsection (a) of this section on August 20, 2003,
24 for the supervision of inmates outside this state is willing to accept
25 additional inmates for supervision, the Commissioner of Correction
26 may, notwithstanding the provisions of section 4a-57, enter into a
27 contract with such governmental vendor for the supervision of such
28 number of additional inmates as such governmental vendor is willing
29 to accept. If the commissioner does not enter into such a contract with
30 such governmental vendor or if, after contracting for the supervision of
31 additional inmates by such governmental vendor, the number of
32 inmates authorized to be supervised outside this state under
33 [subdivision (1) of this subsection] subsection (a) of this section has not
34 been attained, the commissioner may enter into contracts with any
35 governmental or private vendor for the supervision of all or part of the
36 remaining number of inmates authorized to be supervised outside this
37 state under said [subdivision (1)] subsection (a).

38 [(3) Any such governmental or private vendor shall agree to be
39 bound by the provisions of the Interstate Corrections Compact, and
40 any governmental or privately-operated facility to which state inmates
41 are transferred pursuant to a contract under this subsection shall be
42 located in a state which has enacted and entered into the Interstate
43 Corrections Compact.]

44 (c) A state inmate confined in any governmental or privately-

45 operated facility pursuant to the terms of any contract with the state
46 shall at all times be subject to the authority of the Commissioner of
47 Correction who may at any time remove the inmate for transfer to a
48 state correctional facility or other institution, for transfer to another
49 governmental or privately-operated facility, for release on probation or
50 parole, for discharge or for any other purpose permitted by the laws of
51 this state.

52 Sec. 2. Subsection (h) of section 46b-231 of the general statutes is
53 repealed and the following is substituted in lieu thereof (*Effective from*
54 *passage*):

55 [(h) (1) On and after April 1, 2000, the Chief Family Support
56 Magistrate shall receive a salary of ninety-nine thousand five hundred
57 eighty-seven dollars, and other family support magistrates shall
58 receive an annual salary of ninety-four thousand five hundred eighty-
59 seven dollars.

60 (2) On and after April 1, 2001, the Chief Family Support Magistrate
61 shall receive a salary of one hundred three thousand six hundred
62 dollars, and other family support magistrates shall receive an annual
63 salary of ninety-eight thousand six hundred dollars.]

64 [(3)] (h) (1) On and after April 1, 2002, the Chief Family Support
65 Magistrate shall receive a salary of one hundred eight thousand eight
66 hundred twenty-one dollars, and other family support magistrates
67 shall receive an annual salary of one hundred three thousand five
68 hundred sixty-nine dollars.

69 (2) On and after July 1, 2004, the Chief Family Support Magistrate
70 shall receive a salary of one hundred twenty thousand eight hundred
71 thirty-two dollars, and other family support magistrates shall receive
72 an annual salary of one hundred fifteen thousand dollars.

73 (3) On and after July 1, 2005, the Chief Family Support Magistrate
74 shall receive a salary of one hundred thirty thousand four hundred

75 ninety-eight dollars, and other family support magistrates shall receive
76 an annual salary of one hundred twenty-four thousand two hundred
77 dollars.

78 (4) On and after July 1, 2006, the Chief Family Support Magistrate
79 shall receive a salary of one hundred forty thousand nine hundred
80 thirty-eight dollars, and other family support magistrates shall receive
81 an annual salary of one hundred thirty-four thousand one hundred
82 thirty-six dollars.

83 Sec. 3. Subsection (b) of section 46b-236 of the general statutes is
84 repealed and the following is substituted in lieu thereof (*Effective July*
85 *1, 2004*):

86 (b) Each family support referee shall receive, for acting as a family
87 support referee, in addition to the retirement salary, the sum of [one
88 hundred eighty] two hundred dollars and expenses, including
89 mileage, for each day a family support referee is so engaged.

90 Sec. 4. Subsection (a) of section 51-47 of the general statutes is
91 repealed and the following is substituted in lieu thereof (*Effective from*
92 *passage*):

93 (a) The judges of the Superior Court, judges of the Appellate Court
94 and judges of the Supreme Court shall receive annually salaries as
95 follows:

96 [(1) On and after April 1, 2000, (A) the Chief Justice of the Supreme
97 Court, one hundred thirty-five thousand eight hundred sixty-one
98 dollars; (B) the Chief Court Administrator if a judge of the Supreme
99 Court, Appellate Court or Superior Court, one hundred thirty
100 thousand seventeen dollars; (C) each associate judge of the Supreme
101 Court, one hundred twenty-four thousand six hundred eighty-three
102 dollars; (D) the Chief Judge of the Appellate Court, one hundred
103 twenty-three thousand one hundred fifty-two dollars; (E) each judge of
104 the Appellate Court, one hundred sixteen thousand two hundred

105 sixty-seven dollars; (F) the Deputy Chief Court Administrator if a
106 judge of the Superior Court, one hundred thirteen thousand eight
107 hundred ninety-six dollars; (G) each judge of the Superior Court, one
108 hundred eleven thousand two hundred seventy-nine dollars.

109 (2) On and after April 1, 2001, (A) the Chief Justice of the Supreme
110 Court, one hundred forty thousand five hundred eighty-two dollars;
111 (B) the Chief Court Administrator if a judge of the Supreme Court,
112 Appellate Court or Superior Court, one hundred thirty-four thousand
113 seven hundred thirty-eight dollars; (C) each associate judge of the
114 Supreme Court, one hundred twenty-nine thousand four hundred four
115 dollars; (D) the Chief Judge of the Appellate Court, one hundred
116 twenty-seven thousand eight hundred seventy-three dollars; (E) each
117 judge of the Appellate Court, one hundred twenty thousand nine
118 hundred eighty-eight dollars; (F) the Deputy Chief Court
119 Administrator if a judge of the Superior Court, one hundred eighteen
120 thousand six hundred seventeen dollars; (G) each judge of the Superior
121 Court, one hundred sixteen thousand dollars.]

122 [(3)] (1) On and after April 1, 2002, (A) the Chief Justice of the
123 Supreme Court, one hundred forty-nine thousand five hundred
124 eighty-two dollars; (B) the Chief Court Administrator if a judge of the
125 Supreme Court, Appellate Court or Superior Court, one hundred
126 forty-three thousand seven hundred thirty-eight dollars; (C) each
127 associate judge of the Supreme Court, one hundred thirty-eight
128 thousand four hundred four dollars; (D) the Chief Judge of the
129 Appellate Court, one hundred thirty-six thousand eight hundred
130 seventy-three dollars; (E) each judge of the Appellate Court, one
131 hundred twenty-nine thousand nine hundred eighty-eight dollars; (F)
132 the Deputy Chief Court Administrator if a judge of the Superior Court,
133 one hundred twenty-seven thousand six hundred seventeen dollars;
134 (G) each judge of the Superior Court, one hundred twenty-five
135 thousand dollars.

136 (2) On and after July 1, 2004, (A) the Chief Justice of the Supreme

137 Court, one hundred sixty-one thousand five hundred forty-nine
138 dollars; (B) the Chief Court Administrator if a judge of the Supreme
139 Court, Appellate Court or Superior Court, one hundred fifty-five
140 thousand two hundred thirty-seven dollars; (C) each associate judge of
141 the Supreme Court, one hundred forty-nine thousand four hundred
142 seventy-six dollars; (D) the Chief Judge of the Appellate Court, one
143 hundred forty-seven thousand eight hundred twenty-three dollars; (E)
144 each judge of the Appellate Court, one hundred forty thousand three
145 hundred eighty-seven dollars; (F) the Deputy Chief Court
146 Administrator if a judge of the Superior Court, one hundred thirty-
147 seven thousand eight hundred twenty-six dollars; (G) each judge of the
148 Superior Court, one hundred thirty-five thousand dollars.

149 (3) On and after July 1, 2005, (A) the Chief Justice of the Supreme
150 Court, one hundred seventy-four thousand four hundred seventy-two
151 dollars; (B) the Chief Court Administrator if a judge of the Supreme
152 Court, Appellate Court or Superior Court, one hundred sixty-seven
153 thousand six hundred fifty-six dollars; (C) each associate judge of the
154 Supreme Court, one hundred sixty-one thousand four hundred thirty-
155 four dollars; (D) the Chief Judge of the Appellate Court, one hundred
156 fifty-nine thousand six hundred forty-nine dollars; (E) each judge of
157 the Appellate Court, one hundred fifty-one thousand six hundred
158 eighteen dollars; (F) the Deputy Chief Court Administrator if a judge
159 of the Superior Court, one hundred forty-eight thousand eight
160 hundred fifty-two dollars; (G) each judge of the Superior Court, one
161 hundred forty-five thousand eight hundred dollars.

162 (4) On and after July 1, 2006, (A) the Chief Justice of the Supreme
163 Court, one hundred eighty-eight thousand four hundred thirty dollars;
164 (B) the Chief Court Administrator if a judge of the Supreme Court,
165 Appellate Court or Superior Court, one hundred eighty-one thousand
166 sixty-eight dollars; (C) each associate judge of the Supreme Court, one
167 hundred seventy-four thousand three hundred forty-nine dollars; (D)
168 the Chief Judge of the Appellate Court, one hundred seventy-two
169 thousand four hundred twenty-one dollars; (E) each judge of the

170 Appellate Court, one hundred sixty-three thousand seven hundred
171 forty-seven dollars; (F) the Deputy Chief Court Administrator if a
172 judge of the Superior Court, one hundred sixty thousand seven
173 hundred sixty-one dollars; (G) each judge of the Superior Court, one
174 hundred fifty-seven thousand four hundred sixty-four dollars.

175 Sec. 5. Subsection (f) of section 52-434 of the general statutes is
176 repealed and the following is substituted in lieu thereof (*Effective July*
177 *1, 2004*):

178 (f) Each judge trial referee shall receive, for acting as a referee or as a
179 single auditor or committee of any court or for performing duties
180 assigned by the Chief Court Administrator with the approval of the
181 Chief Justice, in addition to the retirement salary, the sum of two
182 hundred twenty dollars and expenses, including mileage, for each day
183 a state referee is so engaged, said sums to be taxed by the court making
184 the reference in the same manner as other court expenses.

185 Sec. 6. (NEW) (*Effective July 1, 2004*) (a) For the purposes of this
186 section: (1) "Economic damages" means payment for actual damages
187 that are found by the trier of fact to have resulted from the negligence
188 of a health care provider in the care or treatment of the claimant,
189 including payments for lost wages, medical bills and future medical
190 costs resulting from the health care provider's negligence; and (2)
191 "noneconomic damages" means payment for damages other than
192 economic damages, including pain and suffering.

193 (b) In any civil action filed on or after October 1, 2004, to recover
194 damages resulting from personal injury or wrongful death in which it
195 is alleged that such injury or death resulted from the negligence of a
196 health care provider in the care or treatment of the claimant, and
197 wherein liability is admitted or determined by the trier of fact: (1) Any
198 economic damages awarded to the claimant shall be in an amount
199 determined by the trier of fact; and (2) any noneconomic damages
200 awarded to the claimant shall not exceed two hundred fifty thousand
201 dollars.

202 Sec. 7. Section 45a-355 of the general statutes is repealed and the
203 following is substituted in lieu thereof (*Effective July 1, 2004*):

204 The application for admission of a decedent's will to probate or for
205 administration of a decedent's estate shall state whether the decedent,
206 or the spouse or children of the decedent, received aid or care from the
207 state, including aid or care from the former Veterans' Home and
208 Hospital Commission or the Department of Veterans' Affairs. A copy
209 of [any] each such application [which states that the decedent, or the
210 spouse or children of the decedent did receive such aid or care] shall
211 be sent by certified mail, return receipt requested, by the Court of
212 Probate to the Department of Administrative Services, [or the
213 Department of Veterans' Affairs, or both, as the case may be, and if] If
214 the Department of Administrative Services or, if applicable, the
215 Department of Veterans' Affairs fails to present its claim to the
216 fiduciary within ninety days from the date of mailing of such
217 notification or the date of the appointment of the fiduciary, whichever
218 is later, the Department of Administrative Services or the Department
219 of Veterans' Affairs, as the case may be, shall be forever barred from
220 asserting or recovering on such claim from the fiduciary, the estate of
221 the decedent or any creditor or beneficiary of the state.

222 Sec. 8. Subdivision (2) of section 54-250 of the general statutes is
223 repealed and the following is substituted in lieu thereof (*Effective July*
224 *1, 2004*):

225 (2) "Criminal offense against a victim who is a minor" means (A) a
226 violation of subdivision (2) of section 53-21 of the general statutes in
227 effect prior to October 1, 2000, subdivision (2) of subsection (a) of
228 section 53-21, subdivision (2) of subsection (a) of section 53a-70,
229 subdivision (1), (4) or (8) of subsection (a) of section 53a-71,
230 subdivision (2) of subsection (a) of section 53a-72a, subdivision (2) of
231 subsection (a) of section 53a-86, subdivision (2) of subsection (a) of
232 section 53a-87, section 53a-90a, 53a-196a, 53a-196b, 53a-196c or 53a-
233 196d, (B) a violation of section 53a-92, 53a-92a, 53a-94, 53a-94a, 53a-95,

234 53a-96 or 53a-186, provided the court makes a finding that, at the time
235 of the offense, the victim was under eighteen years of age, (C) a
236 violation of any of the offenses specified in subparagraph (A) or (B) of
237 this subdivision for which a person is criminally liable under section
238 53a-8, 53a-48 or 53a-49, or (D) a violation of any predecessor statute to
239 any offense specified in subparagraph (A), (B) or (C) of this
240 subdivision the essential elements of which are substantially the same
241 as said offense.

242 Sec. 9. Section 53a-193 of the general statutes is repealed and the
243 following is substituted in lieu thereof (*Effective July 1, 2004*):

244 The following definitions are applicable to this section and sections
245 53a-194 to 53a-210, inclusive, and sections 14 to 16, inclusive, of this
246 act:

247 (1) Any material or performance is "obscene" if, (A) taken as a
248 whole, it predominantly appeals to the prurient interest, (B) it depicts
249 or describes in a patently offensive way [a prohibited sexual act]
250 sexually explicit conduct, and (C) taken as a whole, it lacks serious
251 literary, artistic, educational, political or scientific value. Predominant
252 appeal shall be judged with reference to ordinary adults unless it
253 appears from the character of the material or performance or the
254 circumstances of its dissemination to be designed for some other
255 specially susceptible audience. Whether a material or performance is
256 obscene shall be judged by ordinary adults applying contemporary
257 community standards. In applying contemporary community
258 standards, the state of Connecticut is deemed to be the community.

259 [(2) Material or a performance is "obscene as to minors" if it depicts
260 a prohibited sexual act and, taken as a whole, it is harmful to minors.
261 For purposes of this subsection: (A) "Minor" means any person less
262 than seventeen years old as used in section 53a-196 and less than
263 sixteen years old as used in sections 53a-196a, 53a-196b and 53a-196c
264 and (B) "harmful to minors" means that quality of any description or
265 representation, in whatever form, of a prohibited sexual act, when (i) it

266 predominantly appeals to the prurient, shameful or morbid interest of
267 minors, (ii) it is patently offensive to prevailing standards in the adult
268 community as a whole with respect to what is suitable material for
269 minors, and (iii) taken as a whole, it lacks serious literary, artistic,
270 educational, political or scientific value for minors.

271 (3) "Prohibited sexual act" means erotic fondling, nude performance,
272 sexual excitement, sado-masochistic abuse, masturbation or sexual
273 intercourse.

274 (4) "Nude performance" means the showing of the human male or
275 female genitals, pubic area or buttocks with less than a fully opaque
276 covering, or the showing of the female breast with less than a fully
277 opaque covering of any portion thereof below the top of the nipple, or
278 the depiction of covered male genitals in a discernibly turgid state in
279 any play, motion picture, dance or other exhibition performed before
280 an audience.

281 (5) "Erotic fondling" means touching a person's clothed or unclothed
282 genitals, pubic area, buttocks, or if such person is a female, breast.

283 (6) "Sexual excitement" means the condition of human male or
284 female genitals when in a state of sexual stimulation or arousal.

285 (7) "Sado-masochistic abuse" means flagellation or torture by or
286 upon a person clad in undergarments, a mask or bizarre costume, or
287 the condition of being fettered, bound or otherwise physically
288 restrained on the part of one so clothed.]

289 [(8)] (2) "Masturbation" means the real or simulated touching,
290 rubbing or otherwise stimulating a person's own clothed or unclothed
291 genitals, pubic area, buttocks, or, if the person is female, breast, either
292 by manual manipulation or with an artificial instrument.

293 [(9) "Sexual intercourse" means intercourse, real or simulated,
294 whether genital-genital, oral-genital, anal-genital or oral-anal, whether
295 between persons of the same or opposite sex or between a human and

296 an animal, or with an artificial genital.]

297 [(10)] (3) "Material" means anything tangible which is capable of
298 being used or adapted to arouse prurient, shameful or morbid interest,
299 whether through the medium of reading, observation, sound or in any
300 other manner. Undeveloped photographs, molds, printing plates, and
301 the like, may be deemed obscene notwithstanding that processing or
302 other acts may be required to make the obscenity patent or to
303 disseminate it.

304 [(11)] (4) "Performance" means any play, motion picture, dance or
305 other exhibition performed before an audience.

306 [(12)] (5) "Promote" means to manufacture, issue, sell, give, provide,
307 lend, mail, deliver, transfer, transmit, publish, distribute, circulate,
308 disseminate, present, exhibit, advertise, produce, direct or participate
309 in.

310 [(13)] (6) "Child pornography" means any material [involving a live
311 performance or photographic or other visual reproduction of a live
312 performance which depicts a minor in a prohibited sexual act]
313 including any photograph, film, videotape, picture or computer-
314 generated image or picture, whether made or produced by electronic,
315 mechanical or other means, containing sexually explicit conduct,
316 where the production of such visual depiction involves the use of a
317 minor engaging in sexually explicit conduct, provided whether the
318 subject of a visual image was a minor at the time the image was
319 created is a question to be decided by the trier of fact.

320 (7) "Lascivious exhibition of the genitals" means the showing of the
321 male or female genitals, pubic area or buttocks with less than a fully
322 opaque covering.

323 (8) "Minor" means any person under the age of sixteen years.

324 (9) "Sexually explicit conduct" means actual or simulated (A) sexual
325 intercourse, including genital-genital, oral-genital, anal-genital or oral-

326 anal physical contact, whether between persons of the same or
327 opposite sex, or with an artificial genital, (B) bestiality, (C)
328 masturbation, (D) sadistic or masochistic abuse, or (E) lascivious
329 exhibition of the genitals of any person.

330 (10) "Visual depiction" includes undeveloped film and videotape
331 and data, as defined in subdivision (8) of section 53a-250, that is
332 capable of conversion into a visual image and includes encrypted data.

333 Sec. 10. Section 53a-196a of the general statutes is repealed and the
334 following is substituted in lieu thereof (*Effective July 1, 2004*):

335 (a) A person is guilty of [employing a minor in an obscene
336 performance] manufacturing child pornography when (1) [he] such
337 person employs any minor, whether or not such minor receives any
338 consideration, for the purpose of promoting any material or
339 performance which is [obscene as to minors] child pornography,
340 notwithstanding that such material or performance is intended for an
341 adult audience, or (2) [he] such person permits any such minor to be
342 employed, whether or not such minor receives any consideration, in
343 the promotion of any material or performance which is [obscene as to
344 minors] child pornography, notwithstanding that such material or
345 performance is intended for an adult audience, and [he] such person is
346 the parent or guardian of such minor or otherwise responsible for the
347 general supervision of such minor's welfare.

348 (b) [Employing a minor in an obscene performance] Manufacturing
349 child pornography is a class A felony.

350 Sec. 11. Section 53a-196b of the general statutes is repealed and the
351 following is substituted in lieu thereof (*Effective July 1, 2004*):

352 (a) A person is guilty of [promoting a minor in an obscene
353 performance when he] distributing child pornography when such
354 person knowingly promotes any material or performance in which a
355 minor is employed, whether or not such minor receives any

356 consideration, and such material or performance is [obscene as to
357 minors] child pornography notwithstanding that such material or
358 performance is intended for an adult audience.

359 [(b) For purposes of this section, "knowingly" means having general
360 knowledge of or reason to know or a belief or ground for belief which
361 warrants further inspection or inquiry as to (1) the character and
362 content of any material or performance which is reasonably susceptible
363 of examination by such person and (2) the age of the minor employed.

364 (c) Promoting a minor in an obscene performance is a class B
365 felony.]

366 (b) Distributing child pornography is a class B felony.

367 Sec. 12. Section 53a-196c of the general statutes is repealed and the
368 following is substituted in lieu thereof (*Effective July 1, 2004*):

369 (a) A person is guilty of importing child pornography when [, with
370 intent to promote child pornography, he] such person knowingly
371 imports or causes to be imported into the state [any] three or more
372 images or visual depictions containing child pornography of known
373 content and character.

374 [(b) Importation of two or more copies of any publication containing
375 child pornography shall be prima facie evidence that such publications
376 were imported with intent to promote child pornography.]

377 [(c)] (b) Importing child pornography is a class C felony.

378 Sec. 13. Section 53a-196d of the general statutes is repealed and the
379 following is substituted in lieu thereof (*Effective July 1, 2004*):

380 (a) A person is guilty of possessing child pornography [when he] in
381 the first degree when such person knowingly possesses [child
382 pornography, as defined in subdivision (13) of section 53a-193.
383 Possession of a photographic or other visual reproduction of a nude

384 minor for a bona fide artistic, medical, scientific, educational, religious,
385 governmental or judicial purpose shall not be a violation of this
386 subsection] (1) one hundred or more images of child pornography, or
387 (2) ten or more images of child pornography depicting prepubescent
388 minors.

389 (b) Possessing child pornography in the first degree is a class [D] (B)
390 felony.

391 Sec. 14. (NEW) (*Effective July 1, 2004*) (a) A person is guilty of
392 possessing child pornography in the second degree when such person
393 knowingly possesses more than twenty but fewer than one hundred
394 images of child pornography.

395 (b) Possessing child pornography in the second degree is a class C
396 felony.

397 Sec. 15. (NEW) (*Effective July 1, 2004*) (a) A person is guilty of
398 possessing child pornography in the third degree when such person
399 knowingly possesses fewer than twenty images of child pornography.

400 (b) Possessing child pornography in the third degree is a class D
401 felony.

402 Sec. 16. (NEW) (*Effective July 1, 2004*) In any prosecution for a
403 violation of section 53a-196d of the general statutes, as amended by
404 this act, or section 14 or 15 of this act, it shall be an affirmative defense
405 that (1) the alleged child pornography was produced using a person or
406 persons engaging in sexually explicit conduct, each of whom was an
407 adult at the time the material was produced, (2) the defendant
408 possessed fewer than three images of child pornography, and (3)
409 promptly and in good faith, and without retaining or allowing any
410 person, other than a law enforcement agency, to access any image or
411 copy thereof, reported the matter to a law enforcement agency and
412 afforded that agency access to each such image.

413 Sec. 17. Section 53a-90a of the general statutes is repealed and the

414 following is substituted in lieu thereof (*Effective July 1, 2004*):

415 (a) A person is guilty of enticing a minor when such person uses an
416 interactive computer service to knowingly persuade, induce, entice or
417 coerce any person under sixteen years of age to engage in prostitution
418 or sexual activity for which the actor may be charged with a criminal
419 offense. For purposes of this section, "interactive computer service"
420 means any information service, system or access software provider
421 that provides or enables computer access by multiple users to a
422 computer server, including specifically a service or system that
423 provides access to the Internet and such systems operated or services
424 offered by libraries or educational institutions.

425 (b) Enticing a minor is a class [A misdemeanor] D felony for a first
426 offense, a class [D] C felony for a second offense and a class [C] B
427 felony for any subsequent offense.

428 Sec. 18. (NEW) (*Effective July 1, 2004*) (a) As used in sections 18 to 23,
429 inclusive, of this act:

430 (1) "Electronic communication service" and "remote computing
431 service" shall be construed in accordance with 18 USC 2701 et seq.;

432 (2) "Properly served" means that a search warrant has been
433 delivered by hand, or in a manner reasonably allowing for proof of
434 delivery if delivered by United States mail, overnight delivery service
435 or facsimile to a person; and

436 (3) "Person" means any natural person, corporation, limited liability
437 company, trust, partnership, incorporated or unincorporated
438 association or any other legal entity.

439 (b) A Connecticut corporation that provides electronic
440 communication service or remote computing service to the general
441 public, when properly served with a warrant, court order or subpoena
442 issued under the laws of another state to produce records that would
443 reveal the identity of the customers using those services, data stored

444 by, or on behalf of, the customer, the customer's usage of those
445 services, the recipient or destination of communications sent to or from
446 those customers or the content of those communications, shall produce
447 those records as if that warrant or order had been issued by a
448 Connecticut court.

449 (c) A foreign corporation providing electronic communication
450 services or remote computing services to residents of the state of
451 Connecticut, when properly served with a warrant or subpoena issued
452 under the laws of this state to produce records that would reveal the
453 identity of the customers using those services, data stored by, or on
454 behalf of, the customer, the customer's usage of those services, the
455 recipient or destination of communications sent to or from those
456 customers or the content of those communications, shall produce those
457 records.

458 (d) This section shall not apply to corporations and government
459 entities that do not provide electronic communication service or
460 remote computing service to the general public.

461 Sec. 19. (NEW) (*Effective July 1, 2004*) (a) A provider of electronic
462 communication service or remote computing service shall disclose to a
463 governmental entity the name, address, local and long distance
464 telephone toll billing records, telephone number or other subscriber
465 number or identity, and length of service of a subscriber to or customer
466 of such service and the types of services the subscriber or customer
467 utilized, when the governmental entity uses an administrative
468 subpoena authorized by any state's attorney, the Commissioner of
469 Public Safety or the commissioner's authorized representative or a
470 chief of police or the chief's authorized representative. If any person
471 refuses to obey such subpoena, the superior court for the judicial
472 district of Hartford or, when the court is not in session, any judge
473 thereof shall, upon application of the issuing authority, have
474 jurisdiction to issue to the person an order requiring such person to
475 appear before the issuing authority or to produce the item or items

476 requested. Before issuing such order, the court or judge shall provide
477 adequate opportunity for the parties to be heard.

478 (b) The Commissioner of Public Safety, in cooperation with the
479 chiefs of police and the office of the Chief State's Attorney, shall
480 establish an administrative subpoena form and a method of reporting
481 the number of subpoenas issued pursuant to the authority of this
482 section to the Governor each calendar year.

483 Sec. 20. (NEW) (*Effective July 1, 2004*) (a) Contents of electronic
484 communications in electronic storage may only be provided to a
485 governmental entity by a provider of electronic communication service
486 pursuant to a warrant issued under section 54-33a of the general
487 statutes.

488 (b) The judge or judge trial referee issuing a warrant for contents of
489 electronic communications in electronic storage may order the
490 provider of electronic communications service not to notify the
491 account subscriber of the issuance or existence of the warrant.

492 (c) The judge or judge trial referee issuing a warrant for contents of
493 electronic communications may waive required notice to the account
494 subscriber pursuant to section 54-33c of the general statutes.

495 Sec. 21. (NEW) (*Effective July 1, 2004*) No cause of action shall lie in
496 any court against any provider of wire or electronic communication
497 service, its officers, employees, agents or other specified persons for
498 providing information, facilities or assistance in accordance with the
499 terms of a subpoena issued under section 19 of this act or a warrant
500 issued under section 20 of this act.

501 Sec. 22. (NEW) (*Effective July 1, 2004*) A provider of wire or
502 electronic communication service or remote computing service, upon
503 the request of a governmental entity, shall take all necessary steps to
504 preserve records and other evidence in its possession pending the
505 issuance of a court order or other process. Such records shall be

506 retained for a period of ninety days. Such period shall be extended for
507 an additional ninety-day period upon a renewed request by the
508 governmental entity.

509 Sec. 23. (NEW) (*Effective July 1, 2004*) (a) Within fourteen days after
510 notice by the governmental entity to the subscriber or customer, such
511 subscriber or customer may file a motion to quash a subpoena issued
512 under section 19 of this act, with copies served upon the governmental
513 entity and with written notice of such challenge to the provider of
514 electronic communication service or remote computing service. A
515 motion to quash a subpoena shall be filed with the superior court for
516 the judicial district of Hartford or, when the court is not in session, any
517 judge thereof. Such motion shall contain an affidavit or sworn
518 statement stating (1) that the person making the motion is a subscriber
519 to or customer of the service from which the contents of electronic
520 communications maintained for such person have been sought, and (2)
521 the reasons of the person making the motion for believing that the
522 records sought are not relevant to a legitimate law enforcement
523 inquiry or that there has not been substantial compliance with the
524 provisions of sections 18 to 23, inclusive, of this act in some other
525 respect.

526 (b) Service shall be made under this section upon a governmental
527 entity by delivering or mailing by registered or certified mail a copy of
528 the papers to the person, office or department specified in the notice
529 which the subscriber or customer has received pursuant to sections 18
530 to 23, inclusive, of this act.

531 (c) If the court finds that the subscriber or customer has complied
532 with subsections (a) and (b) of this section, the court shall order the
533 governmental entity to file a sworn response, which may be filed in
534 camera if the governmental entity includes in its response the reasons
535 which make in camera review appropriate. If the court is unable to
536 determine the motion on the basis of the parties' initial allegations and
537 response, the court may conduct such additional proceedings as it

538 deems appropriate. All such proceedings shall be completed and the
539 motion decided as soon as practicable after the filing of the
540 governmental entity's response.

541 (d) If the court finds that the person who made the motion is not the
542 subscriber or customer for whom the communications sought by the
543 governmental entity are maintained, or that there is a reason to believe
544 that the law enforcement inquiry is legitimate and that the
545 communications sought are relevant to that inquiry, it shall deny the
546 motion and order such process enforced. If the court finds that the
547 person who made the motion is the subscriber or customer for whom
548 the communications sought by the governmental entity are
549 maintained, and that there is not a reason to believe that the
550 communications sought are relevant to a legitimate law enforcement
551 inquiry, or that there has not been substantial compliance with the
552 provisions of sections 18 to 23, inclusive, of this act, it shall order the
553 process quashed.

554 (e) A court order denying a motion under this section shall not be
555 deemed a final order and no interlocutory appeal may be taken
556 therefrom by the subscriber or customer.

557 Sec. 24. Subsection (e) of section 53a-29 of the general statutes is
558 repealed and the following is substituted in lieu thereof (*Effective July*
559 *1, 2004*):

560 (e) The period of probation, unless terminated sooner as provided in
561 section 53a-32, shall be not less than ten years nor more than thirty-five
562 years for conviction of a violation of subdivision (2) of subsection (a) of
563 section 53-21, section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a, [or] 53a-
564 72b, 53a-90a, as amended by this act, 53a-196b, as amended by this act,
565 53a-196c, as amended by this act, or 53a-196d, as amended by this act,
566 or section 14 or 15 of this act.

567 Sec. 25. Subsection (c) of section 54-56e of the general statutes is
568 repealed and the following is substituted in lieu thereof (*Effective July*

569 1, 2004):

570 (c) This section shall not be applicable: (1) To any person charged
571 with a class A felony, a class B felony, except a violation of section 53a-
572 122 that does not involve the use, attempted use or threatened use of
573 physical force against another person, or a violation of section 14-227a,
574 as amended, subdivision (2) of subsection (a) of section 53-21, section
575 53a-56b, 53a-60d, 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a, [or]
576 53a-72b, 53a-90a, as amended by this act, or 53a-196c, as amended by
577 this act, or section 14 or 15 of this act, (2) to any person charged with a
578 crime or motor vehicle violation who, as a result of the commission of
579 such crime or motor vehicle violation, causes the death of another
580 person, (3) to any person accused of a family violence crime as defined
581 in section 46b-38a who (A) is eligible for the pretrial family violence
582 education program established under section 46b-38c, as amended, or
583 (B) has previously had the pretrial family violence education program
584 invoked in such person's behalf, (4) to any person charged with a
585 violation of section 21a-267 or 21a-279 who (A) is eligible for the
586 pretrial drug education program established under section 54-56i, or
587 (B) has previously had the pretrial drug education program invoked in
588 such person's behalf, or (5) unless good cause is shown, to any person
589 charged with a class C felony.

590 Sec. 26. Subsection (c) of section 19a-343 of the general statutes, as
591 amended by section 4 of public act 03-231, is repealed and the
592 following is substituted in lieu thereof (*Effective July 1, 2004*):

593 (c) Three or more arrests, or the issuance of three or more arrest
594 warrants indicating a pattern of criminal activity and not isolated
595 incidents, for the following offenses shall constitute the basis for
596 bringing an action to abate a public nuisance:

597 (1) Prostitution under section 53a-82, 53a-83, 53a-86, 53a-87, 53a-88
598 or 53a-89.

599 [(2) Promoting an obscene performance or obscene material under

600 section 53a-196 or 53a-196b, employing a minor in an obscene
601 performance under section 53a-196a or importing or possessing child
602 pornography under section 53a-196c or 53a-196d.]

603 (2) Manufacturing child pornography under section 53a-196a, as
604 amended by this act, distributing child pornography under section
605 53a-196b, as amended by this act, importing child pornography under
606 section 53a-196c, as amended by this act, possessing child
607 pornography in the first degree under section 53a-196d, as amended
608 by this act, possessing child pornography in the second degree under
609 section 14 of this act and possessing child pornography in the third
610 degree under section 15 of this act.

611 (3) Transmission of gambling information under section 53-278b or
612 53-278d or maintaining of a gambling premises under section 53-278e.

613 (4) Offenses for the sale of controlled substances, possession of
614 controlled substances with intent to sell, or maintaining a drug factory
615 under section 21a-277, 21a-278 or 21a-278a or use of the property by
616 persons possessing controlled substances under section 21a-279.
617 Nothing in this section shall prevent the state from also proceeding
618 against property under section 21a-259 or 54-36h.

619 (5) Unauthorized sale of alcoholic liquor under section 30-74 or
620 disposing of liquor without a permit under section 30-77, as amended.

621 (6) Violations of the inciting injury to persons or property law under
622 section 53a-179a.

623 (7) Maintaining a motor vehicle chop shop under section 14-149a.

624 (8) Murder or manslaughter under section 53a-54a, 53a-54b, 53a-55,
625 53a-56 or 53a-56a.

626 (9) Assault under section 53a-59, 53a-59a, subdivision (1) of
627 subsection (a) of section 53a-60 or section 53a-60a.

628 (10) Sexual assault under section 53a-70 or 53a-70a.

629 (11) Fire safety violations under section 29-292, subsection (b) of
 630 section 29-310, or section 29-315, as amended, 29-317, 29-320, 29-325,
 631 29-329, 29-337, 29-349 or 29-357, as amended.

632 Sec. 27. (NEW) (*Effective July 1, 2004*) On or after July 1, 2007, the
 633 Secretary of the Office of Policy and Management shall notify the Chief
 634 Justice of the Supreme Court and the Chief Court Administrator of any
 635 percentage wage increases given to nonunionized management
 636 employees for cost of living or for the managers' performance
 637 appraisal review system, not including extraordinary bonuses,
 638 approved by the Commissioner of Administrative Services and the
 639 secretary in any given fiscal year. Upon such notification, the Chief
 640 Justice and the Chief Court Administrator may increase, by such
 641 percentages on the same effective dates as outlined for executive
 642 branch managers, the compensation set forth in: (1) Subsection (h) of
 643 section 46b-231 of the general statutes, as amended by this act; (2)
 644 subsection (b) of section 46b-236 of the general statutes, as amended by
 645 this act; (3) subsection (a) of section 51-47 of the general statutes, as
 646 amended by this act; and (4) subsection (f) of section 52-434 of the
 647 general statutes, as amended by this act.

648 Sec. 28. (*Effective July 1, 2004*) Sections 53a-196, 53a-197 and 53a-198
 649 of the general statutes are repealed.

650 Sec. 29. (*Effective from passage*) Section 54 of public act 03-1 of the
 651 June 30 special session is repealed.

This act shall take effect as follows:	
Section 1	<i>from passage</i>
Sec. 2	<i>from passage</i>
Sec. 3	<i>July 1, 2004</i>
Sec. 4	<i>from passage</i>
Sec. 5	<i>July 1, 2004</i>
Sec. 6	<i>July 1, 2004</i>

Sec. 7	<i>July 1, 2004</i>
Sec. 8	<i>July 1, 2004</i>
Sec. 9	<i>July 1, 2004</i>
Sec. 10	<i>July 1, 2004</i>
Sec. 11	<i>July 1, 2004</i>
Sec. 12	<i>July 1, 2004</i>
Sec. 13	<i>July 1, 2004</i>
Sec. 14	<i>July 1, 2004</i>
Sec. 15	<i>July 1, 2004</i>
Sec. 16	<i>July 1, 2004</i>
Sec. 17	<i>July 1, 2004</i>
Sec. 18	<i>July 1, 2004</i>
Sec. 19	<i>July 1, 2004</i>
Sec. 20	<i>July 1, 2004</i>
Sec. 21	<i>July 1, 2004</i>
Sec. 22	<i>July 1, 2004</i>
Sec. 23	<i>July 1, 2004</i>
Sec. 24	<i>July 1, 2004</i>
Sec. 25	<i>July 1, 2004</i>
Sec. 26	<i>July 1, 2004</i>
Sec. 27	<i>July 1, 2004</i>
Sec. 28	<i>July 1, 2004</i>
Sec. 29	<i>from passage</i>

Statement of Purpose:

To implement the Governor's budget recommendations.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]