



# House of Representatives

General Assembly

**File No. 40**

January Session, 2005

House Bill No. 6012

*House of Representatives, March 17, 2005*

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

## ***AN ACT CONCERNING MURDER WITH SPECIAL CIRCUMSTANCES.***

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

1 Section 1. (NEW) (*Effective from passage*) Notwithstanding any other  
2 provision of law including, but not limited to, subsections (t) and (u) of  
3 section 1-1, section 54-130a and section 54-194 of the general statutes,  
4 (1) the sentence of any person convicted of a capital felony and  
5 sentenced prior to the effective date of this section to a sentence of  
6 death in accordance with section 53a-46a of the general statutes in  
7 effect prior to the effective date of this section is commuted to a  
8 sentence of life imprisonment without the possibility of release, as  
9 defined in section 53a-35b of the general statutes, as amended by this  
10 act, on the effective date of this section, and (2) the punishment or  
11 penalty for any person who (A) is convicted prior to, on or after the  
12 effective date of this section of a capital felony committed prior to the  
13 effective date of this section, and (B) is sentenced or resentenced on or  
14 after the effective date of this section, shall be a sentence of life  
15 imprisonment without the possibility of release, as defined in section

16 53a-35b of the general statutes, as amended by this act, if such offense  
17 was committed on or after October 1, 1985, and a sentence of life  
18 imprisonment, as defined in section 53a-35b of the general statutes, as  
19 amended by this act, if such offense was committed prior to October 1,  
20 1985. For the purposes of this section, "capital felony" means a  
21 violation of section 53a-54b of the general statutes in effect prior to the  
22 effective date of this section.

23 Sec. 2. Section 53a-54b of the general statutes is repealed and the  
24 following is substituted in lieu thereof (*Effective from passage*):

25 A person is guilty of [a capital felony] murder with special  
26 circumstances who is convicted of any of the following: (1) Murder of a  
27 member of the Division of State Police within the Department of Public  
28 Safety or of any local police department, a chief inspector or inspector  
29 in the Division of Criminal Justice, a state marshal who is exercising  
30 authority granted under any provision of the general statutes, a  
31 judicial marshal in performance of the duties of a judicial marshal, a  
32 constable who performs criminal law enforcement duties, a special  
33 policeman appointed under section 29-18, a conservation officer or  
34 special conservation officer appointed by the Commissioner of  
35 Environmental Protection under the provisions of section 26-5, an  
36 employee of the Department of Correction or a person providing  
37 services on behalf of said department when such employee or person  
38 is acting within the scope of such employee's or person's employment  
39 or duties in a correctional institution or facility and the actor is  
40 confined in such institution or facility, or any firefighter, while such  
41 victim was acting within the scope of such victim's duties; (2) murder  
42 committed by a defendant who is hired to commit the same for  
43 pecuniary gain or murder committed by one who is hired by the  
44 defendant to commit the same for pecuniary gain; (3) murder  
45 committed by one who has previously been convicted of intentional  
46 murder or of murder committed in the course of commission of a  
47 felony; (4) murder committed by one who was, at the time of  
48 commission of the murder, under sentence of life imprisonment; (5)  
49 murder by a kidnapper of a kidnapped person during the course of the

50 kidnapping or before such person is able to return or be returned to  
51 safety; (6) murder committed in the course of the commission of sexual  
52 assault in the first degree; (7) murder of two or more persons at the  
53 same time or in the course of a single transaction; or (8) murder of a  
54 person under sixteen years of age.

55 Sec. 3. Section 53a-35a of the general statutes is repealed and the  
56 following is substituted in lieu thereof (*Effective from passage*):

57 For any felony committed on or after [July 1, 1981] the effective date  
58 of this section, the sentence of imprisonment shall be a definite  
59 sentence and the term shall be fixed by the court as follows: (1) For [a  
60 capital felony] the class A felony of murder with special circumstances,  
61 a term of life imprisonment without the possibility of release; [unless a  
62 sentence of death is imposed in accordance with section 53a-46a;] (2)  
63 for the class A felony of murder, a term not less than twenty-five years  
64 nor more than life; (3) for a class A felony other than murder, a term  
65 not less than ten years nor more than twenty-five years; (4) for the class  
66 B felony of manslaughter in the first degree with a firearm under  
67 section 53a-55a, a term not less than five years nor more than forty  
68 years; (5) for a class B felony other than manslaughter in the first  
69 degree with a firearm under section 53a-55a, a term not less than one  
70 year nor more than twenty years, except that for a conviction under  
71 section 53a-59(a)(1), 53a-59a, 53a-70a, 53a-94a, 53a-101(a)(1) or 53a-  
72 134(a)(2), the term shall be not less than five years nor more than  
73 twenty years; (6) for a class C felony, a term not less than one year nor  
74 more than ten years, except that for a conviction under section 53a-56a,  
75 the term shall be not less than three years nor more than ten years; (7)  
76 for a class D felony, a term not less than one year nor more than five  
77 years, except that for a conviction under section 53a-60b or 53a-217, the  
78 term shall be not less than two years nor more than five years, for a  
79 conviction under section 53a-60c, the term shall be not less than three  
80 years nor more than five years, and for a conviction under section 53a-  
81 216, the term shall be five years; (8) for an unclassified felony, a term in  
82 accordance with the sentence specified in the section of the general  
83 statutes that defines the crime.

84 Sec. 4. Section 53a-35b of the general statutes is repealed and the  
85 following is substituted in lieu thereof (*Effective from passage*):

86 [A] For the purposes of this title and titles 51 and 54, (1) a sentence  
87 of [imprisonment for life shall mean] life imprisonment means a  
88 definite sentence of sixty years, [unless the] and (2) a sentence [is] of  
89 life imprisonment without the possibility of release, imposed pursuant  
90 to [subsection (g) of section 53a-46a, in which case the sentence shall  
91 be] subdivision (1) of section 53a-35a, as amended by this act, means  
92 imprisonment for the remainder of the defendant's natural life without  
93 the possibility of parole, sentence reduction, temporary leave, furlough  
94 or any other kind of post-conviction conditional or absolute release.

95 Sec. 5. Subsection (a) of section 53a-45 of the general statutes is  
96 repealed and the following is substituted in lieu thereof (*Effective from*  
97 *passage*):

98 (a) Murder is punishable as a class A felony in accordance with  
99 subdivision (2) of section 53a-35a, as amended by this act, unless it is [a  
100 capital felony] murder with special circumstances under section 53a-  
101 54b, as amended by this act, punishable as a class A felony in  
102 accordance with subdivision (1) of section 53a-35a, as amended by this  
103 act, or murder under section 53a-54d.

104 Sec. 6. Subsection (c) of section 53a-54a of the general statutes is  
105 repealed and the following is substituted in lieu thereof (*Effective from*  
106 *passage*):

107 (c) Murder is punishable as a class A felony in accordance with  
108 subdivision (2) of section 53a-35a, as amended by this act, unless it is [a  
109 capital felony] murder with special circumstances under section 53a-  
110 54b, as amended by this act, punishable as a class A felony in  
111 accordance with subdivision (1) of section 53a-35a, as amended by this  
112 act, or murder under section 53a-54d.

113 Sec. 7. Subsection (m) of section 10-145b of the general statutes is  
114 repealed and the following is substituted in lieu thereof (*Effective from*

115 *passage*):

116 (m) (1) The State Board of Education may revoke any certificate,  
117 authorization or permit issued pursuant to sections 10-144o to 10-149,  
118 inclusive, for any of the following reasons: (A) The holder of the  
119 certificate, authorization or permit obtained such certificate,  
120 authorization or permit through fraud or misrepresentation of a  
121 material fact; (B) the holder has persistently neglected to perform the  
122 duties for which the certificate, authorization or permit was granted;  
123 (C) the holder is professionally unfit to perform the duties for which  
124 the certificate, authorization or permit was granted; (D) the holder is  
125 convicted in a court of law of a crime involving moral turpitude or of  
126 any other crime of such nature that in the opinion of the board  
127 continued holding of a certificate, authorization or permit by the  
128 person would impair the standing of certificates, authorizations or  
129 permits issued by the board; or (E) other due and sufficient cause. The  
130 State Board of Education shall revoke any certificate, authorization or  
131 permit issued pursuant to said sections if the holder is found to have  
132 intentionally disclosed specific questions or answers to students or  
133 otherwise improperly breached the security of any administration of a  
134 state-wide examination pursuant to section 10-14n. In any revocation  
135 proceeding pursuant to this section, the State Board of Education shall  
136 have the burden of establishing the reason for such revocation by a  
137 preponderance of the evidence. Revocation shall be in accordance with  
138 procedures established by the State Board of Education pursuant to  
139 chapter 54.

140 (2) When the Commissioner of Education is notified, pursuant to  
141 section 10-149a or 17a-101i that a person holding a certificate,  
142 authorization or permit issued by the State Board of Education under  
143 the provisions of sections 10-144o to 10-149, inclusive, has been  
144 convicted of (A) a capital felony, pursuant to section 53a-54b in effect  
145 prior to the effective date of this section, (B) arson murder, pursuant to  
146 section 53a-54d, (C) a class A felony, (D) a class B felony, except a  
147 violation of section 53a-122, 53a-252 or 53a-291, (E) a crime involving  
148 an act of child abuse or neglect as described in section 46b-120, or (F) a

149 violation of section 53-21, 53-37a, 53a-60b, 53a-60c, 53a-71, 53a-72a, 53a-  
150 72b, 53a-73a, 53a-88, 53a-99, 53a-103a, 53a-181c, 53a-191, 53a-196, 53a-  
151 196c, 53a-216, 53a-217b or 21a-278 or subsection (a) of section 21a-277,  
152 any certificate, permit or authorization issued by the State Board of  
153 Education and held by such person shall be deemed revoked and the  
154 commissioner shall notify such person of such revocation, provided  
155 such person may request reconsideration pursuant to regulations  
156 adopted by the State Board of Education, in accordance with the  
157 provisions of chapter 54.

158 (3) The State Board of Education may deny an application for a  
159 certificate, authorization or permit for any of the following reasons: (A)  
160 The applicant seeks to obtain a certificate, authorization or permit  
161 through fraud or misrepresentation of a material fact; (B) the applicant  
162 has been convicted in a court of law of a crime involving moral  
163 turpitude or of any other crime of such nature that in the opinion of  
164 the board issuance of a certificate, authorization or permit would  
165 impair the standing of certificates, authorizations or permits issued by  
166 the board; or (C) other due and sufficient cause. Any applicant denied  
167 a certificate, authorization or permit shall be notified in writing of the  
168 reasons for denial. Any applicant denied a certificate, authorization or  
169 permit may request a review of such denial by the State Board of  
170 Education.

171 Sec. 8. Section 10-145i of the general statutes is repealed and the  
172 following is substituted in lieu thereof (*Effective from passage*):

173 Notwithstanding the provisions of sections 10-144o to 10-146b,  
174 inclusive, and 10-149, the State Board of Education shall not issue or  
175 reissue any certificate, authorization or permit pursuant to said  
176 sections if (1) the applicant for such certificate, authorization or permit  
177 has been convicted of any of the following: (A) A capital felony, as  
178 defined in section 53a-54b in effect prior to the effective date of this  
179 section; (B) arson murder, as defined in section 53a-54d; (C) any Class  
180 A felony; (D) any Class B felony except a violation of section 53a-122,  
181 53a-252 or 53a-291; (E) a crime involving an act of child abuse or

182 neglect as described in section 46b-120; or (F) a violation of section 53-  
183 21, 53-37a, 53a-60b, 53a-60c, 53a-71, 53a-72a, 53a-72b, 53a-73a, 53a-88,  
184 53a-99, 53a-103a, 53a-181c, 53a-191, 53a-196, 53a-196c, 53a-216, 53a-  
185 217b or 21a-278 or a violation of subsection (a) of section 21a-277, and  
186 (2) the applicant completed serving the sentence for such conviction  
187 within the five years immediately preceding the date of the  
188 application.

189 Sec. 9. Subsection (a) of section 46b-127 of the general statutes is  
190 repealed and the following is substituted in lieu thereof (*Effective from*  
191 *passage*):

192 (a) The court shall automatically transfer from the docket for  
193 juvenile matters to the regular criminal docket of the Superior Court  
194 the case of any child charged with the commission of a capital felony  
195 under section 53a-54b in effect prior to the effective date of this section,  
196 a class A or B felony or a violation of section 53a-54d, provided such  
197 offense was committed after such child attained the age of fourteen  
198 years and counsel has been appointed for such child if such child is  
199 indigent. Such counsel may appear with the child but shall not be  
200 permitted to make any argument or file any motion in opposition to  
201 the transfer. The child shall be arraigned in the regular criminal docket  
202 of the Superior Court at the next court date following such transfer,  
203 provided any proceedings held prior to the finalization of such transfer  
204 shall be private and shall be conducted in such parts of the courthouse  
205 or the building wherein court is located as shall be separate and apart  
206 from the other parts of the court which are then being held for  
207 proceedings pertaining to adults charged with crimes. The file of any  
208 case so transferred shall remain sealed until the end of the tenth  
209 working day following such arraignment unless the state's attorney  
210 has filed a motion pursuant to this subsection, in which case such file  
211 shall remain sealed until the court makes a decision on the motion. A  
212 state's attorney may, not later than ten working days after such  
213 arraignment, file a motion to transfer the case of any child charged  
214 with the commission of a class B felony or a violation of subdivision (2)  
215 of subsection (a) of section 53a-70 to the docket for juvenile matters for

216 proceedings in accordance with the provisions of this chapter. The  
217 court sitting for the regular criminal docket shall, after hearing and not  
218 later than ten working days after the filing of such motion, decide such  
219 motion.

220 Sec. 10. Subsection (a) of section 46b-133 of the general statutes is  
221 repealed and the following is substituted in lieu thereof (*Effective from*  
222 *passage*):

223 (a) Nothing in this part shall be construed as preventing the arrest of  
224 a child, with or without a warrant, as may be provided by law, or as  
225 preventing the issuance of warrants by judges in the manner provided  
226 by section 54-2a, as amended by this act, except that no child shall be  
227 taken into custody on such process except on apprehension in the act,  
228 or on speedy information, or in other cases when the use of such  
229 process appears imperative. Whenever a child is arrested and charged  
230 with a crime, such child may be required to submit to the taking of his  
231 photograph, physical description and fingerprints. Notwithstanding  
232 the provisions of section 46b-124, the name, photograph and custody  
233 status of any child arrested for the commission of a capital felony  
234 under section 53a-54b in effect prior to the effective date of this section  
235 or class A felony may be disclosed to the public.

236 Sec. 11. Subsection (c) of section 51-36 of the general statutes is  
237 repealed and the following is substituted in lieu thereof (*Effective from*  
238 *passage*):

239 (c) (1) In cases in which a person has been convicted after trial of a  
240 felony, other than a capital felony under section 53a-54b in effect prior  
241 to the effective date of this section or murder with special  
242 circumstances under section 53a-54b, as amended by this act, in effect  
243 on or after the effective date of this section, the official records of  
244 evidence or judicial proceedings in the court may be destroyed upon  
245 the expiration of twenty years from the date of disposition of such case  
246 or upon the expiration of the sentence imposed upon such person,  
247 whichever is later.

248 (2) In cases in which a person has been convicted after trial of a  
249 capital felony under section 53a-54b in effect prior to the effective date  
250 of this section or murder with special circumstances under section 53a-  
251 54b, as amended by this act, in effect on or after the effective date of  
252 this section, the official records of evidence or judicial proceedings in  
253 the court may be destroyed upon the expiration of seventy-five years  
254 from the conviction of such person.

255 Sec. 12. Subsection (b) of section 51-199 of the general statutes is  
256 repealed and the following is substituted in lieu thereof (*Effective from*  
257 *passage*):

258 (b) The following matters shall be taken directly to the Supreme  
259 Court: (1) Any matter brought pursuant to the original jurisdiction of  
260 the Supreme Court under section 2 of article sixteen of the  
261 amendments to the Constitution; (2) an appeal in any matter where the  
262 Superior Court declares invalid a state statute or a provision of the  
263 state Constitution; (3) an appeal in any criminal action involving a  
264 conviction for a capital felony [,] under section 53a-54b in effect prior  
265 to the effective date of this section, a class A felony [,] or any other  
266 felony, including any persistent offender status, for which the  
267 maximum sentence which may be imposed exceeds twenty years; [(4)  
268 review of a sentence of death pursuant to section 53a-46b; (5)] (4) any  
269 election or primary dispute brought to the Supreme Court pursuant to  
270 section 9-323 or 9-325; [(6)] (5) an appeal of any reprimand or censure  
271 of a probate judge pursuant to section 45a-65; [(7)] (6) any matter  
272 regarding judicial removal or suspension pursuant to section 51-51j;  
273 [(8)] (7) an appeal of any decision of the Judicial Review Council  
274 pursuant to section 51-51r; [(9)] (8) any matter brought to the Supreme  
275 Court pursuant to section 52-265a; [(10)] (9) writs of error; and [(11)]  
276 (10) any other matter as provided by law.

277 Sec. 13. Section 51-246 of the general statutes is repealed and the  
278 following is substituted in lieu thereof (*Effective from passage*):

279 In the trial of any [capital case or any case involving imprisonment  
280 for life] offense punishable by life imprisonment or life imprisonment

281 without the possibility of release, the court may, in its discretion,  
282 require the jury to remain together in the charge of judicial marshals  
283 during the trial and until the jury is discharged by the court from  
284 further consideration of the case.

285 Sec. 14. Section 51-286c of the general statutes is repealed and the  
286 following is substituted in lieu thereof (*Effective from passage*):

287 The state's attorney for any judicial district may employ one or more  
288 detectives to investigate for the purpose of discovering the  
289 perpetrators of any crime committed within this state, whenever the  
290 penalty for such crime is [capital punishment or imprisonment in the  
291 Connecticut Correctional Institution, Somers] life imprisonment or life  
292 imprisonment without the possibility of release. The expenses incurred  
293 in the employment of such detectives shall be paid from the State  
294 Treasury on an order from the state's attorney employing them.

295 Sec. 15. Subsection (a) of section 52-434 of the general statutes is  
296 repealed and the following is substituted in lieu thereof (*Effective from*  
297 *passage*):

298 (a) (1) Each judge of the Supreme Court, each judge of the Appellate  
299 Court, each judge of the Superior Court and each judge of the Court of  
300 Common Pleas who ceases or has ceased to hold office because of  
301 retirement other than under the provisions of section 51-49 and who is  
302 an elector and a resident of this state shall be a state referee for the  
303 remainder of such judge's term of office as a judge and shall be eligible  
304 for appointment as a state referee during the remainder of such judge's  
305 life in the manner prescribed by law for the appointment of a judge of  
306 the court of which such judge is a member. The Superior Court may  
307 refer any civil, nonjury case or with the written consent of the parties  
308 or their attorneys, any civil jury case pending before the court in which  
309 the issues have been closed to a judge trial referee who shall have and  
310 exercise the powers of the Superior Court in respect to trial, judgment  
311 and appeal in the case, and any proceeding resulting from a demand  
312 for a trial de novo pursuant to subsection (e) of section 52-549z may be  
313 referred without the consent of the parties to a judge trial referee who

314 has been specifically designated to hear such proceedings pursuant to  
315 subsection (b) of this section. The Superior Court may, with the  
316 consent of the parties or their attorneys, refer any criminal case to a  
317 judge trial referee who shall have and exercise the powers of the  
318 Superior Court in respect to trial, judgment, sentencing and appeal in  
319 the case, except that the Superior Court may, without the consent of  
320 the parties or their attorneys, (A) refer any criminal case, other than a  
321 criminal jury trial, to a judge trial referee assigned to a geographical  
322 area criminal court session, and (B) refer any criminal case, other than  
323 a class A or B felony or capital felony under section 53a-54b in effect  
324 prior to the effective date of this section, to a judge trial referee to  
325 preside over the jury selection process and any voir dire examination  
326 conducted in such case, unless good cause is shown not to refer.

327 (2) Each judge of the Circuit Court who has ceased to hold office  
328 because of retirement other than under the provisions of section 51-49  
329 and who is an elector and a resident of this state shall be a state referee  
330 for the remainder of such judge's term of office as a judge and shall be  
331 eligible for appointment as a state referee during the remainder of such  
332 judge's life in the manner prescribed by law for the appointment of a  
333 judge of the court of which such judge is a member, to whom the  
334 Superior Court may, with the written consent of the parties or their  
335 attorneys, refer any case pending in court in which the issues have  
336 been closed and which the judges of the Superior Court may establish  
337 by rule to be the kind of case which may be heard by such referees  
338 who have been appointed judge trial referees pursuant to subsection  
339 (b) of this section. The judge trial referee shall hear any such case so  
340 referred and report the facts to the court by which the case was  
341 referred.

342 (3) Each judge of the Juvenile Court who ceases or has ceased to  
343 hold office because of retirement other than under the provisions of  
344 section 51-49 and who is an elector and a resident of this state shall be  
345 a state referee for the remainder of such judge's term of office as a  
346 judge and shall be eligible for appointment as a state referee during the  
347 remainder of such judge's life in the manner prescribed by law for the

348 appointment of a judge of the court of which such judge is a member,  
349 to whom a judge before whom any juvenile matter is pending may,  
350 with the written consent of the child concerned, either of such child's  
351 parents, or such child's guardian or attorney, refer any juvenile matter  
352 pending, provided such referee has been appointed a judge trial  
353 referee specifically designated to hear juvenile cases pursuant to  
354 subsection (b) of this section. The judge trial referee shall hear any  
355 matter so referred and report the facts to the court for the district from  
356 which the matter was referred.

357 (4) In addition to the judge trial referees who are appointed  
358 pursuant to subdivision (1), (2) or (3) of this subsection, the Chief  
359 Justice may appoint, from qualified members of the bar of the state,  
360 who are electors and residents of this state, as many state referees as  
361 the Chief Justice may from time to time deem advisable or necessary.  
362 No appointment of a member of the bar may be for a term of more  
363 than three years. Notwithstanding the provisions of subsection (f) of  
364 this section, state referees appointed by the Chief Justice from  
365 members of the bar shall receive such reasonable compensation and  
366 expenses as may be determined by the Chief Justice. The Superior  
367 Court may appoint a state referee pursuant to this subdivision to take  
368 such evidence as it directs in any civil, nonjury case including, but not  
369 limited to, appeals under section 8-8. Any such state referee shall  
370 report on such evidence to the court with any findings of fact. The  
371 report shall constitute a part of the proceeding upon which the  
372 determination of the court shall be made.

373 Sec. 16. Subsection (b) of section 53a-25 of the general statutes is  
374 repealed and the following is substituted in lieu thereof (*Effective from*  
375 *passage*):

376 (b) Felonies are classified for the purposes of sentence as follows: (1)  
377 Class A, (2) class B, (3) class C, (4) class D, and (5) unclassified. [and (6)  
378 capital felonies.]

379 Sec. 17. Subsection (b) of section 53a-28 of the general statutes is  
380 repealed and the following is substituted in lieu thereof (*Effective from*

381 *passage*):

382 (b) [Except as provided in section 53a-46a, when] Whenever a  
383 person is convicted of an offense, the court shall impose one of the  
384 following sentences: (1) A term of imprisonment; or (2) a sentence  
385 authorized by section 18-65a or 18-73; or (3) a fine; or (4) a term of  
386 imprisonment and a fine; or (5) a term of imprisonment, with the  
387 execution of such sentence of imprisonment suspended, entirely or  
388 after a period set by the court, and a period of probation or a period of  
389 conditional discharge; or (6) a term of imprisonment, with the  
390 execution of such sentence of imprisonment suspended, entirely or  
391 after a period set by the court, and a fine and a period of probation or a  
392 period of conditional discharge; or (7) a fine and a sentence authorized  
393 by section 18-65a or 18-73; or (8) a sentence of unconditional discharge;  
394 or (9) a term of imprisonment and a period of special parole as  
395 provided in section 54-125e.

396 Sec. 18. Subsection (a) of section 53a-30 of the general statutes is  
397 repealed and the following is substituted in lieu thereof (*Effective from*  
398 *passage*):

399 (a) When imposing sentence of probation or conditional discharge,  
400 the court may, as a condition of the sentence, order that the defendant:  
401 (1) Work faithfully at a suitable employment or faithfully pursue a  
402 course of study or of vocational training that will equip the defendant  
403 for suitable employment; (2) undergo medical or psychiatric treatment  
404 and remain in a specified institution, when required for that purpose;  
405 (3) support the defendant's dependents and meet other family  
406 obligations; (4) make restitution of the fruits of the defendant's offense  
407 or make restitution, in an amount the defendant can afford to pay or  
408 provide in a suitable manner, for the loss or damage caused thereby  
409 and the court may fix the amount thereof and the manner of  
410 performance; (5) if a minor, (A) reside with the minor's parents or in a  
411 suitable foster home, (B) attend school, and (C) contribute to the  
412 minor's own support in any home or foster home; (6) post a bond or  
413 other security for the performance of any or all conditions imposed; (7)

414 refrain from violating any criminal law of the United States, this state  
415 or any other state; (8) if convicted of a misdemeanor or a felony, other  
416 than a capital felony under section 53a-54b in effect prior to the  
417 effective date of this section, a class A felony or a violation of section  
418 21a-278, 21a-278a, 53a-55, 53a-56, 53a-56b, 53a-57, 53a-58 or 53a-70b or  
419 any offense for which there is a mandatory minimum sentence which  
420 may not be suspended or reduced by the court, and any sentence of  
421 imprisonment is suspended, participate in an alternate incarceration  
422 program; (9) reside in a residential community center or halfway  
423 house approved by the Commissioner of Correction, and contribute to  
424 the cost incident to such residence; (10) participate in a program of  
425 community service labor in accordance with section 53a-39c; (11)  
426 participate in a program of community service in accordance with  
427 section 51-181c; (12) if convicted of a violation of subdivision (2) of  
428 subsection (a) of section 53-21, section 53a-70, 53a-70a, 53a-70b, 53a-71,  
429 53a-72a or 53a-72b, undergo specialized sexual offender treatment; (13)  
430 if convicted of a criminal offense against a victim who is a minor, a  
431 nonviolent sexual offense or a sexually violent offense, as defined in  
432 section 54-250, or of a felony that the court finds was committed for a  
433 sexual purpose, as provided in section 54-254, register such person's  
434 identifying factors, as defined in section 54-250, with the  
435 Commissioner of Public Safety when required pursuant to section 54-  
436 251, 54-252 or 54-253, as the case may be; (14) be subject to electronic  
437 monitoring; (15) if convicted of a violation of section 46a-58, 53-37a,  
438 53a-181j, 53a-181k or 53a-181l, participate in an anti-bias crime  
439 education program; (16) if convicted of a violation of section 53-247,  
440 undergo psychiatric or psychological counseling or participate in an  
441 animal cruelty prevention and education program provided such a  
442 program exists and is available to the defendant; or (17) satisfy any  
443 other conditions reasonably related to the defendant's rehabilitation.  
444 The court shall cause a copy of any such order to be delivered to the  
445 defendant and to the probation officer, if any.

446 Sec. 19. Subsection (b) of section 53a-35 of the general statutes is  
447 repealed and the following is substituted in lieu thereof (*Effective from*  
448 *passage*):

449 (b) The maximum term of an indeterminate sentence shall be fixed  
450 by the court and specified in the sentence as follows: (1) For a class A  
451 felony, life imprisonment; (2) for a class B felony, a term not to exceed  
452 twenty years; (3) for a class C felony, a term not to exceed ten years; (4)  
453 for a class D felony, a term not to exceed five years; (5) for an  
454 unclassified felony, a term in accordance with the sentence specified in  
455 the section of the general statutes that defines the crime; and (6) for a  
456 capital felony under section 53a-54b in effect prior to the effective date  
457 of this section, life imprisonment. [unless a sentence of death is  
458 imposed in accordance with section 53a-46a.]

459 Sec. 20. Subsection (a) of section 53a-39a of the general statutes is  
460 repealed and the following is substituted in lieu thereof (*Effective from*  
461 *passage*):

462 (a) In all cases where a defendant has been convicted of a  
463 misdemeanor or a felony, other than a capital felony under section 53a-  
464 54b in effect prior to the effective date of this section, a class A felony  
465 or a violation of section 21a-278, 21a-278a, 53a-55, 53a-56, 53a-56b, 53a-  
466 57, 53a-58 or 53a-70b or any other offense for which there is a  
467 mandatory minimum sentence which may not be suspended or  
468 reduced by the court, after trial or by a plea of guilty without trial, and  
469 a term of imprisonment is part of a stated plea agreement or the  
470 statutory penalty provides for a term of imprisonment, the court may,  
471 in its discretion, order an assessment for placement in an alternate  
472 incarceration program under contract with the Judicial Department. If  
473 the Court Support Services Division recommends placement in an  
474 alternate incarceration program, it shall also submit to the court a  
475 proposed alternate incarceration plan. Upon completion of the  
476 assessment, the court shall determine whether such defendant shall be  
477 ordered to participate in such program as an alternative to  
478 incarceration. If the court determines that the defendant shall  
479 participate in such program, the court shall suspend any sentence of  
480 imprisonment and shall make participation in the alternate  
481 incarceration program a condition of probation as provided in section  
482 53a-30, as amended by this act.

483 Sec. 21. Subsection (a) of section 53a-40d of the general statutes is  
484 repealed and the following is substituted in lieu thereof (*Effective from*  
485 *passage*):

486 (a) A persistent offender of crimes involving assault, stalking,  
487 trespass, threatening, harassment, criminal violation of a protective  
488 order or criminal violation of a restraining order is a person who (1)  
489 stands convicted of assault under section 53a-61, stalking under section  
490 53a-181d, threatening under section 53a-62, harassment under section  
491 53a-183, criminal violation of a protective order under section 53a-223,  
492 criminal violation of a restraining order under section 53a-223b or  
493 criminal trespass under section 53a-107 or 53a-108, and (2) has, within  
494 the five years preceding the commission of the present crime, been  
495 convicted of a capital felony under section 53a-54b in effect prior to the  
496 effective date of this section, a class A felony, a class B felony, except a  
497 conviction under section 53a-86 or 53a-122, a class C felony, except a  
498 conviction under section 53a-87, 53a-152 or 53a-153, or a class D felony  
499 under sections 53a-60 to 53a-60c, inclusive, 53a-72a, 53a-72b, 53a-95,  
500 53a-103, 53a-103a, 53a-114, 53a-136 or 53a-216, assault under section  
501 53a-61, stalking under section 53a-181d, threatening under section 53a-  
502 62, harassment under section 53a-183, criminal violation of a protective  
503 order under section 53a-223, criminal violation of a restraining order  
504 under section 53a-223b, or criminal trespass under section 53a-107 or  
505 53a-108 or has been released from incarceration with respect to such  
506 conviction, whichever is later.

507 Sec. 22. Section 53a-46d of the general statutes is repealed and the  
508 following is substituted in lieu thereof (*Effective from passage*):

509 A victim impact statement prepared with the assistance of a victim  
510 advocate to be placed in court files in accordance with subdivision (2)  
511 of subsection (a) of section 54-220 may be read in court prior to  
512 imposition of sentence upon a defendant found guilty of a crime  
513 punishable by [death] life imprisonment without the possibility of  
514 release.

515 Sec. 23. Subsection (a) of section 53a-182b of the general statutes is

516 repealed and the following is substituted in lieu thereof (*Effective from*  
517 *passage*):

518 (a) A person is guilty of harassment in the first degree when, with  
519 the intent to harass, annoy, alarm or terrorize another person, he  
520 threatens to kill or physically injure that person or any other person,  
521 and communicates such threat by telephone, or by telegraph, mail,  
522 computer network, as defined in section 53a-250, or any other form of  
523 written communication, in a manner likely to cause annoyance or  
524 alarm and has been convicted of a capital felony under section 53a-54b  
525 in effect prior to the effective date of this section, a class A felony, a  
526 class B felony, except a conviction under section 53a-86 or 53a-122, a  
527 class C felony, except a conviction under section 53a-87, 53a-152 or 53a-  
528 153, or a class D felony under sections 53a-60 to 53a-60c, inclusive, 53a-  
529 72a, 53a-72b, 53a-95, 53a-103, 53a-103a, 53a-114, 53a-136 or 53a-216. For  
530 the purposes of this section, "convicted" means having a judgment of  
531 conviction entered by a court of competent jurisdiction.

532 Sec. 24. Subsection (a) of section 53a-217d of the general statutes is  
533 repealed and the following is substituted in lieu thereof (*Effective from*  
534 *passage*):

535 (a) A person is guilty of criminal possession of body armor when he  
536 possesses body armor and has been (1) convicted of a capital felony  
537 under section 53a-54b in effect prior to the effective date of this section,  
538 a class A felony, except a conviction under section 53a-196a, a class B  
539 felony, except a conviction under section 53a-86, 53a-122 or 53a-196b, a  
540 class C felony, except a conviction under section 53a-87, 53a-152 or 53a-  
541 153 or a class D felony under sections 53a-60 to 53a-60c, inclusive, 53a-  
542 72a, 53a-72b, 53a-95, 53a-103, 53a-103a, 53a-114, 53a-136 or 53a-216, or  
543 (2) convicted as delinquent for the commission of a serious juvenile  
544 offense, as defined in section 46b-120.

545 Sec. 25. Subsection (b) of section 54-2a of the general statutes is  
546 repealed and the following is substituted in lieu thereof (*Effective from*  
547 *passage*):

548 (b) The court, judge or judge trial referee issuing a bench warrant  
549 for the arrest of the person or persons complained against shall, in  
550 cases punishable by [death or] life imprisonment or life imprisonment  
551 without the possibility of release, set the conditions of release or  
552 indicate that the person or persons named in the warrant shall not be  
553 entitled to bail and may, in all other cases, set the conditions of release.  
554 The conditions of release, if included in the warrant, shall fix the first  
555 of the following conditions which the court, judge or judge trial referee  
556 finds necessary to assure such person's appearance in court: (1)  
557 Written promise to appear; (2) execution of a bond without surety in  
558 no greater amount than necessary; or (3) execution of a bond with  
559 surety in no greater amount than necessary.

560 Sec. 26. Subsection (b) of section 54-45 of the general statutes is  
561 repealed and the following is substituted in lieu thereof (*Effective from*  
562 *passage*):

563 (b) No person shall be put to plea or held to trial for any crime the  
564 punishment of which may be [death or imprisonment for] life  
565 imprisonment or life imprisonment without the possibility of release,  
566 charged by the state before May 26, 1983, unless an indictment has  
567 been found against [him] such person for such crime by a grand jury  
568 legally impaneled and sworn, and no bill shall be presented by any  
569 grand jury unless at least twelve of the jurors agree to it.

570 Sec. 27. Section 54-46 of the general statutes is repealed and the  
571 following is substituted in lieu thereof (*Effective from passage*):

572 For all crimes charged by the state on or after May 26, 1983, the  
573 prosecution may be by complaint or information. [For all crimes  
574 punishable by death or imprisonment for life charged by the state  
575 before May 26, 1983, the prosecution shall be by indictment.]

576 Sec. 28. Subsection (a) of section 54-46a of the general statutes is  
577 repealed and the following is substituted in lieu thereof (*Effective from*  
578 *passage*):

579 (a) No person charged by the state, who has not been indicted by a  
580 grand jury prior to May 26, 1983, shall be put to plea or held to trial for  
581 any crime punishable by [death or] life imprisonment or life  
582 imprisonment without the possibility of release unless the court at a  
583 preliminary hearing determines there is probable cause to believe that  
584 the offense charged has been committed and that the accused person  
585 has committed it. The accused person may knowingly and voluntarily  
586 waive such preliminary hearing to determine probable cause.

587 Sec. 29. Section 54-48 of the general statutes is repealed and the  
588 following is substituted in lieu thereof (*Effective from passage*):

589 When any crime punishable by [death or] imprisonment for more  
590 than one year has been committed, the Governor, upon application of  
591 the state's attorney for the judicial district in which it has been  
592 committed, may offer, publicly, a reward not exceeding fifty thousand  
593 dollars, to the person who gives information leading to the arrest and  
594 conviction of the guilty person, or, if such guilty person has fled after  
595 conviction of a felony in a court of this state, to the person who gives  
596 information leading to the arrest and detention of the convicted felon,  
597 whether found within the state or elsewhere, which reward shall be  
598 paid to the informer by the state, by order of the court before which  
599 such conviction is had.

600 Sec. 30. Section 54-53 of the general statutes is repealed and the  
601 following is substituted in lieu thereof (*Effective from passage*):

602 Each person detained in a community correctional center pursuant  
603 to the issuance of a bench warrant of arrest or for arraignment,  
604 sentencing or trial for [an offense not punishable by death] any offense  
605 shall be entitled to bail and shall be released from such institution  
606 upon entering into a recognizance, with sufficient surety, or upon  
607 posting cash bail as provided in section 54-66, for the detained person's  
608 appearance before the court having cognizance of the offense, to be  
609 taken by any person designated by the Commissioner of Correction at  
610 the institution where the person is detained. The person so designated  
611 shall deliver the recognizance or cash bail to the clerk of the

612 appropriate court before the opening of the court on the first court day  
613 thereafter. When cash bail in excess of ten thousand dollars is received  
614 for a detained person accused of a felony, where the underlying facts  
615 and circumstances of the felony involve the use, attempted use or  
616 threatened use of physical force against another person, the person so  
617 designated shall prepare a report that contains (1) the name, address  
618 and taxpayer identification number of the detained person, (2) the  
619 name, address and taxpayer identification number of each person  
620 offering the cash bail, other than a person licensed as a professional  
621 bondsman under chapter 533 or a surety bail bond agent under  
622 chapter 700f, (3) the amount of cash received, and (4) the date the cash  
623 was received. Not later than fifteen days after receipt of such cash bail,  
624 the person so designated shall file the report with the Department of  
625 Revenue Services and mail a copy of the report to the state's attorney  
626 for the judicial district in which the alleged offense was committed and  
627 to each person offering the cash bail.

628 Sec. 31. Subsection (a) of section 54-53a of the general statutes is  
629 repealed and the following is substituted in lieu thereof (*Effective from*  
630 *passage*):

631 (a) No person who has not made bail may be detained in a  
632 community correctional center pursuant to the issuance of a bench  
633 warrant of arrest or for arraignment, sentencing or trial for [an offense  
634 not punishable by death,] any offense for longer than forty-five days,  
635 unless at the expiration of the forty-five days [he] such person is  
636 presented to the court having cognizance of the offense. On each such  
637 presentment, the court may reduce, modify or discharge the bail, or  
638 may for cause shown remand the person to the custody of the  
639 Commissioner of Correction. On the expiration of each successive  
640 forty-five-day period, the person may again by motion be presented to  
641 the court for such purpose.

642 Sec. 32. Section 54-82 of the general statutes is repealed and the  
643 following is substituted in lieu thereof (*Effective from passage*):

644 (a) In any criminal case, prosecution or proceeding, the [party]

645 accused may, if [he] the accused so elects when called upon to plead,  
646 be tried by the court instead of by the jury; and, in such case, the court  
647 shall have jurisdiction to hear and try such case and render judgment  
648 and sentence thereon.

649 (b) If the accused is charged with a crime punishable by [death or  
650 imprisonment for] life imprisonment or life imprisonment without the  
651 possibility of release and elects to be tried by the court, the court shall  
652 be composed of three judges to be designated by the Chief Court  
653 Administrator, or [his] the Chief Court Administrator's designee, who  
654 shall name one such judge to preside over the trial. Such judges, or a  
655 majority of them, shall have power to decide all questions of law and  
656 fact arising upon the trial and render judgment accordingly.

657 (c) If the [party] accused does not elect to be tried by the court, [he]  
658 the accused shall be tried by a jury of six, except that no person [ ]  
659 charged with an offense which is punishable by [death or] life  
660 imprisonment [ ] or life imprisonment without the possibility of release  
661 shall be tried by a jury of less than twelve without [his] such person's  
662 consent.

663 Sec. 33. Section 54-82g of the general statutes is repealed and the  
664 following is substituted in lieu thereof (*Effective from passage*):

665 The accused may challenge peremptorily, in any criminal trial  
666 before the Superior Court for any offense punishable by [death] life  
667 imprisonment without the possibility of release, twenty-five jurors; for  
668 any offense punishable by [imprisonment for] life imprisonment,  
669 fifteen jurors; for any offense the punishment for which may be  
670 imprisonment for more than one year and for less than life, six jurors;  
671 and for any other offense, three jurors. In any criminal trial in which  
672 the accused is charged with more than one count on the information or  
673 where there is more than one information, the number of challenges is  
674 determined by the count carrying the highest maximum punishment.  
675 The state, on the trial of any criminal prosecution, may challenge  
676 peremptorily the same number of jurors as the accused.

677 Sec. 34. Subsection (a) of section 54-82h of the general statutes is  
678 repealed and the following is substituted in lieu thereof (*Effective from*  
679 *passage*):

680 (a) In any criminal prosecution to be tried to the jury in the Superior  
681 Court if it appears to the court that the trial is likely to be protracted,  
682 the court may, in its discretion, direct that, after a jury has been  
683 selected, two or more additional jurors shall be added to the jury  
684 panel, to be known as "alternate jurors". Such alternate jurors shall  
685 have the same qualifications and be selected and subject to  
686 examination and challenge in the same manner and to the same extent  
687 as the jurors constituting the regular panel, provided, in any case when  
688 the court directs the selection of alternate jurors, the number of  
689 peremptory challenges allowed shall be as follows: In any criminal  
690 prosecution the state and the accused may each peremptorily  
691 challenge thirty jurors if the offense for which the accused is arraigned  
692 is punishable by [death] life imprisonment without the possibility of  
693 release, eighteen jurors if the offense is punishable by life  
694 imprisonment, eight jurors if the offense is punishable by  
695 imprisonment for more than one year and for less than life, and four  
696 jurors in any other case.

697 Sec. 35. Section 54-82j of the general statutes is repealed and the  
698 following is substituted in lieu thereof (*Effective from passage*):

699 Upon the written complaint of any state's attorney addressed to the  
700 clerk of the superior court for the judicial district wherein such state's  
701 attorney resides, alleging (1) that a person named therein is or will be a  
702 material witness in a criminal proceeding then pending before or  
703 returnable to the superior court for such judicial district, and in which  
704 proceeding any person is or may be charged with an offense  
705 punishable by [death or] imprisonment for more than one year, and (2)  
706 that the state's attorney believes that such witness is likely to disappear  
707 from the state, secrete himself or herself or otherwise avoid the service  
708 of subpoena upon him or her, or refuse or fail to appear and attend in  
709 and before such superior court as a witness, when desired, the clerk or

710 any assistant clerk of the court shall issue a warrant addressed to any  
711 proper officer or indifferent person, for the arrest of the person named  
712 as a witness, and directing that such person be forthwith brought  
713 before any judge of the superior court for such judicial district, for  
714 examination. The person serving the warrant shall bring the person so  
715 arrested before the judge for examination as soon as is reasonably  
716 possible and hold [him] such arrested person subject to the further  
717 orders of the judge. The person serving the warrant shall also notify  
718 the state's attorney of such arrest and of the time and place of such  
719 examination.

720 Sec. 36. Section 54-83 of the general statutes is repealed and the  
721 following is substituted in lieu thereof (*Effective from passage*):

722 No person may be convicted of any crime punishable by [death] life  
723 imprisonment without the possibility of release without the testimony  
724 of at least two witnesses, or that which is equivalent thereto.

725 Sec. 37. Subsection (a) of section 54-91a of the general statutes is  
726 repealed and the following is substituted in lieu thereof (*Effective from*  
727 *passage*):

728 (a) No defendant convicted of a crime, other than a capital felony  
729 under section 53a-54b in effect prior to the effective date of this section,  
730 or murder with special circumstances, under section 53a-54b, as  
731 amended by this act, in effect on or after the effective date of this  
732 section, the punishment for which may include imprisonment for more  
733 than one year, may be sentenced, or the defendant's case otherwise  
734 disposed of, until a written report of investigation by a probation  
735 officer has been presented to and considered by the court, if the  
736 defendant is so convicted for the first time in this state; but any court  
737 may, in its discretion, order a presentence investigation for a defendant  
738 convicted of any crime or offense other than a capital felony under  
739 section 53a-54b in effect prior to the effective date of this section, or  
740 murder with special circumstances, pursuant to section 53a-54b, as  
741 amended by this act, in effect on or after the effective date of this  
742 section.

743 Sec. 38. Section 54-95 of the general statutes is repealed and the  
744 following is substituted in lieu thereof (*Effective from passage*):

745 (a) Any defendant in a criminal prosecution, aggrieved by any  
746 decision of the Superior Court, upon the trial thereof, or by any error  
747 apparent upon the record of such prosecution, may be relieved by  
748 appeal, petition for a new trial or writ of error, in the same manner and  
749 with the same effect as in civil actions. No appeal may be taken from a  
750 judgment denying a petition for a new trial unless, within ten days  
751 after the judgment is rendered, the judge who heard the case or a judge  
752 of the Supreme Court or the Appellate Court, as the case may be,  
753 certifies that a question is involved in the decision which ought to be  
754 reviewed by the Supreme Court or by the Appellate Court. It shall be  
755 sufficient service of any such writ of error or petition for a new trial to  
756 serve it upon the state's attorney for the judicial district where it is  
757 brought.

758 (b) When such defendant is convicted and sentenced to a term of  
759 imprisonment and, within two weeks after final judgment, files with  
760 the clerk of the court wherein the conviction was had an appeal to the  
761 supreme court or gives oral or written notice of his intention to appeal  
762 to said court or to petition for a new trial, the appeal or the notice shall  
763 operate as a stay of execution pending the final determination of the  
764 case, provided the defendant is admitted to bail, except the appeal or  
765 the notice shall not operate as a stay of execution, if within five days  
766 after the filing of the appeal or notice thereof, the judge before whom  
767 the criminal prosecution was tried directs in writing that the appeal or  
768 the notice shall not operate as a stay of execution. Such order shall be  
769 accompanied by a written statement of the judge's reasons for denying  
770 the stay of execution. The order and the statement shall become a part  
771 of the files and record of the case. If any defendant has been admitted  
772 to bail following an oral or written notice of intent to appeal or petition  
773 for a new trial and such defendant has failed, within twenty days after  
774 the judgment from which the appeal is to be taken, or such further  
775 period as the court may grant, to perfect the appeal or petition, a  
776 mittimus for his arrest shall issue. If any defendant is imprisoned after

777 sentencing and before he is admitted to bail, such period of  
778 imprisonment shall be counted toward satisfaction of his sentence. If  
779 any defendant is admitted to bail and subsequently surrendered and  
780 remitted to custody while his appeal is pending, the period of  
781 imprisonment following thereafter shall be counted toward  
782 satisfaction of his sentence.

783 [(c) In any criminal prosecution in which the defendant has been  
784 sentenced to death and has taken an appeal to the Supreme Court of  
785 this state or the Supreme Court of the United States or brought a writ  
786 of error, writ of certiorari or petition for a new trial, the taking of the  
787 appeal, the making of the application for a writ of certiorari or the  
788 return into court of the writ of error or petition for a new trial shall,  
789 unless, upon application by the state's attorney and after hearing, the  
790 Supreme Court otherwise orders, stay the execution of the death  
791 penalty until the clerk of the court where the trial was had has received  
792 notification of the termination of any such proceeding by decision or  
793 otherwise, and for thirty days thereafter. No appellate procedure shall  
794 be deemed to have terminated until the end of the period allowed by  
795 law for the filing of a motion for reargument, or, if such motion is filed,  
796 until the proceedings consequent thereon are finally determined.  
797 When execution is stayed under the provisions of this section, the clerk  
798 of the court shall forthwith give notice thereof to the warden of the  
799 institution in which such defendant is in custody. If the original  
800 judgment of conviction has been affirmed or remains in full force at the  
801 time when the clerk has received the notification of the termination of  
802 any proceedings by appeal, writ of certiorari, writ of error or petition  
803 for a new trial, and the day designated for the infliction of the death  
804 penalty has then passed or will pass within thirty days thereafter, the  
805 defendant shall, within said period of thirty days, upon an order of the  
806 court in which the judgment was rendered at a regular or special  
807 criminal session thereof, be presented before said court by the warden  
808 of the institution in which the defendant is in custody or his deputy,  
809 and the court, with the judge assigned to hold the session presiding,  
810 shall thereupon designate a day for the infliction of the death penalty  
811 and the clerk of the court shall issue a warrant of execution, reciting

812 therein the original judgment, the fact of the stay of execution and the  
813 final order of the court, which warrant shall be forthwith served upon  
814 the warden or his deputy.]

815 Sec. 39. Subsection (b) of section 54-125a of the general statutes is  
816 repealed and the following is substituted in lieu thereof (*Effective from*  
817 *passage*):

818 (b) (1) No person convicted of any of the following offenses, which  
819 was committed on or after July 1, 1981, shall be eligible for parole  
820 under subsection (a) of this section: Capital felony, as provided in  
821 section 53a-54b in effect prior to the effective date of this section, or  
822 murder with special circumstances, as provided in section 53a-54b, as  
823 amended by this act, in effect on or after the effective date of this  
824 section, felony murder, as provided in section 53a-54c, arson murder,  
825 as provided in section 53a-54d, murder, as provided in section 53a-54a,  
826 or aggravated sexual assault in the first degree, as provided in section  
827 53a-70a. (2) A person convicted of an offense, other than an offense  
828 specified in subdivision (1) of this subsection, where the underlying  
829 facts and circumstances of the offense involve the use, attempted use  
830 or threatened use of physical force against another person shall be  
831 ineligible for parole under subsection (a) of this section until such  
832 person has served not less than eighty-five per cent of the definite  
833 sentence imposed.

834 Sec. 40. Subsection (d) of section 54-125d of the general statutes is  
835 repealed and the following is substituted in lieu thereof (*Effective from*  
836 *passage*):

837 (d) Notwithstanding any provision of the general statutes, a  
838 sentencing court may refer any person convicted of an offense other  
839 than a capital felony under section 53a-54b in effect prior to the  
840 effective date of this section or a class A felony who is an alien to the  
841 Board of Pardons and Paroles for deportation under this section.

842 Sec. 41. Subsection (a) of section 54-130a of the general statutes is  
843 repealed and the following is substituted in lieu thereof (*Effective from*

844 *passage*):

845 (a) Jurisdiction over the granting of, and the authority to grant,  
846 commutations of punishment or releases, conditioned or absolute, in  
847 the case of any person convicted of any offense against the state [and  
848 commutations from the penalty of death] shall be vested in the Board  
849 of Pardons and Paroles.

850 Sec. 42. Section 54-130d of the general statutes is repealed and the  
851 following is substituted in lieu thereof (*Effective from passage*):

852 (a) For the purposes of this section, "victim" means a person who is  
853 a victim of a crime, the legal representative of such person or a  
854 member of a deceased victim's immediate family.

855 (b) At a session held by the Board of Pardons and Paroles to  
856 consider whether to grant a commutation of punishment or release,  
857 conditioned or absolute, [a commutation from the penalty of death] or  
858 a pardon, conditioned or absolute, to any person convicted of any  
859 crime, the board shall permit any victim of the crime for which the  
860 person was convicted to appear before the board for the purpose of  
861 making a statement for the record concerning whether the convicted  
862 person should be granted such commutation, release or pardon. In lieu  
863 of such appearance, the victim may submit a written statement to the  
864 board and the board shall make such statement a part of the record at  
865 the session.

866 (c) If the Board of Pardons and Paroles is prepared to grant a  
867 commutation of punishment or release, conditioned or absolute, [a  
868 commutation from the penalty of death] or a pardon, conditioned or  
869 absolute, to a person convicted of an offense involving the use,  
870 attempted use or threatened use of physical force against another  
871 person or resulting in the physical injury, serious physical injury or  
872 death of another person, it shall make reasonable efforts to locate and  
873 notify any victim of the crime for which such person was convicted  
874 prior to granting such commutation, release or pardon and shall  
875 permit such victim to appear before the board and make a statement or

876 submit a statement as provided in subsection (b) of this section.

877 (d) Upon the granting to any person of a commutation of  
878 punishment or release, conditioned or absolute, [a commutation from  
879 the penalty of death] or a pardon, conditioned or absolute, the Board  
880 of Pardons and Paroles shall forthwith notify the Office of Victim  
881 Services of its action.

882 Sec. 43. Section 54-131b of the general statutes is repealed and the  
883 following is substituted in lieu thereof (*Effective from passage*):

884 The Board of Pardons and Paroles may release on medical parole  
885 any inmate serving any sentence of imprisonment, except an inmate  
886 convicted of a capital felony [as defined in section] under section 53a-  
887 54b in effect prior to the effective date of this section, or murder with  
888 special circumstances, under section 53a-54b, as amended by this act,  
889 in effect on or after the effective date of this section, who has been  
890 diagnosed pursuant to section 54-131c as suffering from a terminal  
891 condition, disease or syndrome, and is so debilitated or incapacitated  
892 by such condition, disease or syndrome as to be physically incapable of  
893 presenting a danger to society. Notwithstanding any provision of the  
894 general statutes to the contrary, the Board of Pardons and Paroles may  
895 release such inmate at any time during the term of his sentence.

896 Sec. 44. Section 54-148 of the general statutes is repealed and the  
897 following is substituted in lieu thereof (*Effective from passage*):

898 The support of prisoners in community correctional centers [ ] or  
899 sentenced to a correctional institution [ , or sentenced to death, ] shall be  
900 paid by the state.

901 Sec. 45. Section 54-193 of the general statutes is repealed and the  
902 following is substituted in lieu thereof (*Effective from passage*):

903 (a) There shall be no limitation of time within which a person may  
904 be prosecuted for a capital felony under section 53a-54b in effect prior  
905 to the effective date of this section, a class A felony or a violation of  
906 section 53a-54d or 53a-169.

907 (b) No person may be prosecuted for any offense, except a capital  
908 felony under section 53a-54b in effect prior to the effective date of this  
909 section, a class A felony or a violation of section 53a-54d or 53a-169, for  
910 which the punishment is or may be imprisonment in excess of one  
911 year, except within five years next after the offense has been  
912 committed. No person may be prosecuted for any other offense, except  
913 a capital felony under section 53a-54b in effect prior to the effective  
914 date of this section, a class A felony or a violation of section 53a-54d or  
915 53a-169, except within one year next after the offense has been  
916 committed.

917 (c) If the person against whom an indictment, information or  
918 complaint for any of said offenses is brought has fled from and resided  
919 out of this state during the period so limited, it may be brought against  
920 such person at any time within such period, during which such person  
921 resides in this state, after the commission of the offense.

922 (d) When any suit, indictment, information or complaint for any  
923 crime may be brought within any other time than is limited by this  
924 section, it shall be brought within such time.

925 Sec. 46. Subsection (b) of section 54-102jj of the general statutes is  
926 repealed and the following is substituted in lieu thereof (*Effective from*  
927 *passage*):

928 (b) Upon the conviction of a person of a capital felony under section  
929 53a-54b in effect prior to the effective date of this section or murder  
930 with special circumstances under section 53a-54b, as amended by this  
931 act, in effect on or after the effective date of this section or the  
932 conviction of a person of a crime after trial, or upon order of the court  
933 for good cause shown, the state police, all local police departments,  
934 any agent of the state police or a local police department and any other  
935 person to whom biological evidence has been transferred shall  
936 preserve all biological evidence acquired during the course of the  
937 investigation of such crime for the term of such person's incarceration.

938 Sec. 47. Subsection (a) of section 54-131k of the general statutes is

939 repealed and the following is substituted in lieu thereof (*Effective from*  
 940 *passage*):

941 (a) The Board of Pardons and Paroles may grant a compassionate  
 942 parole release to any inmate serving any sentence of imprisonment,  
 943 except an inmate convicted of a capital felony [, as defined in] under  
 944 section 53a-54b in effect prior to the effective date of this section or  
 945 murder with special circumstances under section 53a-54b, as amended  
 946 by this act, in effect on or after the effective date of this section, if it  
 947 finds that such inmate (1) is so physically or mentally debilitated,  
 948 incapacitated or infirm as a result of advanced age or as a result of a  
 949 condition, disease or syndrome that is not terminal as to be physically  
 950 incapable of presenting a danger to society, and (2) (A) has served not  
 951 less than one-half of such inmate's definite or aggregate sentence, or  
 952 (B) has served not less than one-half of such inmate's remaining  
 953 definite or aggregate sentence after commutation of the original  
 954 sentence by the Board of Pardons and Paroles.

955 Sec. 48. Sections 18-10a, 53a-46a, 53a-46b, 53a-46c, 54-99, 54-100, 54-  
 956 100a, 54-101 and 54-102 of the general statutes are repealed. (*Effective*  
 957 *from passage*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	53a-54b
Sec. 3	<i>from passage</i>	53a-35a
Sec. 4	<i>from passage</i>	53a-35b
Sec. 5	<i>from passage</i>	53a-45(a)
Sec. 6	<i>from passage</i>	53a-54a(c)
Sec. 7	<i>from passage</i>	10-145b(m)
Sec. 8	<i>from passage</i>	10-145i
Sec. 9	<i>from passage</i>	46b-127(a)
Sec. 10	<i>from passage</i>	46b-133(a)
Sec. 11	<i>from passage</i>	51-36(c)
Sec. 12	<i>from passage</i>	51-199(b)
Sec. 13	<i>from passage</i>	51-246

Sec. 14	<i>from passage</i>	51-286c
Sec. 15	<i>from passage</i>	52-434(a)
Sec. 16	<i>from passage</i>	53a-25(b)
Sec. 17	<i>from passage</i>	53a-28(b)
Sec. 18	<i>from passage</i>	53a-30(a)
Sec. 19	<i>from passage</i>	53a-35(b)
Sec. 20	<i>from passage</i>	53a-39a(a)
Sec. 21	<i>from passage</i>	53a-40d(a)
Sec. 22	<i>from passage</i>	53a-46d
Sec. 23	<i>from passage</i>	53a-182b(a)
Sec. 24	<i>from passage</i>	53a-217d(a)
Sec. 25	<i>from passage</i>	54-2a(b)
Sec. 26	<i>from passage</i>	54-45(b)
Sec. 27	<i>from passage</i>	54-46
Sec. 28	<i>from passage</i>	54-46a(a)
Sec. 29	<i>from passage</i>	54-48
Sec. 30	<i>from passage</i>	54-53
Sec. 31	<i>from passage</i>	54-53a(a)
Sec. 32	<i>from passage</i>	54-82
Sec. 33	<i>from passage</i>	54-82g
Sec. 34	<i>from passage</i>	54-82h(a)
Sec. 35	<i>from passage</i>	54-82j
Sec. 36	<i>from passage</i>	54-83
Sec. 37	<i>from passage</i>	54-91a(a)
Sec. 38	<i>from passage</i>	54-95
Sec. 39	<i>from passage</i>	54-125a(b)
Sec. 40	<i>from passage</i>	54-125d(d)
Sec. 41	<i>from passage</i>	54-130a(a)
Sec. 42	<i>from passage</i>	54-130d
Sec. 43	<i>from passage</i>	54-131b
Sec. 44	<i>from passage</i>	54-148
Sec. 45	<i>from passage</i>	54-193
Sec. 46	<i>from passage</i>	54-102jj(b)
Sec. 47	<i>from passage</i>	54-131k(a)
Sec. 48	<i>from passage</i>	18-10a, 53a-46a, 53a-46b, 53a-46c, 54-99, 54-100, 54-100a, 54-101 and 54- 102 repealed

**JUD**      *Joint Favorable*

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 06 \$	FY 07 \$
Pub. Defender Serv. Com.; Criminal Justice, Div.; Judicial Dept.	GF - Savings	Greater than \$1 million	Greater than \$1 million
Correction, Dept.	GF - Cost / Savings	See Below	See Below

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill repeals the death sentence as an authorized penalty for any person who commits certain murders. It also commutes the penalty for individuals presently under sentence of death to life imprisonment without the possibility of release.

**Litigation Savings**

The Division of Public Defender Services Commission (PDSC) currently maintains a Capital Defense and Trial Services Unit, which has as its sole purpose the defense of clients in death penalty cases on a statewide basis. The Unit has thirteen staff members assigned to it and a budget of \$1.1 million in FY 04. In addition, the Division spends approximately \$800,000 for special public defenders and expert witness testimony in death penalty cases.

Some of the resources identified above, particularly for contracted special public defenders and expert witness testimony but also potentially including one or more staff members, would be reallocated to continue to defend the approximate 34 individuals accused or convicted of murder each year who would otherwise have faced the death penalty. The remaining resources presently devoted exclusively to the defense of capital cases could be saved as a result of the bill.

This amount is estimated to be \$1 million annually.

The Division of Criminal Justice (DCJ) does not have a statewide capital prosecution unit comparable to the PDSC's Capital Defense and Trial Services Unit. Instead, the DCJ leaves responsibility for capital prosecutions in the hands of the State's Attorney for each individual Judicial District. The same experienced Senior Assistant State's Attorney has been assigned to all of the death penalty appeals to date. Post-conviction litigation is handled by the agency's Civil Litigation Bureau, which is headed by a senior prosecutor with appellate death penalty experience. The distribution of workload among offices and prosecutors with other duties, in addition to the fact that the Division of Criminal Justice does not separately track its death penalty - related costs, limits the extent to which the agency's costs attributable to the death penalty can be quantified.

Notwithstanding the lack of quantified budgetary costs to the DCJ, it is reasonable to conclude that the agency devotes a level of staff time to the prosecution of death penalty cases that is comparable to that of the PDSC to defend them. The overall fiscal value of prosecutorial services is therefore roughly equivalent; however, because it is not concentrated in a single cost center or entirely among particular employees, budgetary savings would be more difficult to realize within the DCJ if the bill were to become law.

The Judicial Department could experience minimal savings (overtime, travel reimbursements and other expenses) under the bill to the extent that future extraordinary judicial proceedings, such as the Saturday morning session of the Connecticut Supreme Court held on January 22<sup>nd</sup>, are precluded. It is anticipated that the Judicial Department would also experience a workload decrease similar to that of the PDSC and the DCJ.

### **Incarceration Impact**

The bill would result in savings and cost to the Department of Correction (DOC). The savings relate to avoiding the costs that are

incurred as a result of preparing for, and carrying out, an execution; the costs relate to the increased length of time that an individual would be incarcerated rather than being executed.

The costs associated with preparing for an execution in the Michael Ross case are estimated at \$292,318 to date but will ultimately be higher by the time the execution is completed. However, if an additional execution were to take place in the near future, the cost would be significantly lower since staff would not need to be re-trained, and the majority of equipment that was purchased can be reused.

However, these savings would be offset by additional costs related to a lengthier period of incarceration due to an inmate serving the term of life rather than being executed prior. The average cost of incarceration for an inmate at Northern Correctional Institution is \$66,000 per year. The annual cost for inmates on death row is the same as the cost for inmates who are incarcerated for life at Northern Correctional Institution.

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**OLR Bill Analysis**

HB 6012

**AN ACT CONCERNING MURDER WITH SPECIAL CIRCUMSTANCES****SUMMARY:**

This bill renames the crime of capital felony as murder with special circumstances, eliminates the death penalty as a sentencing option, and makes the penalty for this new crime life imprisonment without the possibility of release. Under current law, the penalty for a capital felony is either the death penalty or life imprisonment without the possibility of release.

For people sentenced to death before the bill's effective date, the bill commutes the death sentence to life imprisonment without possibility of release.

For people who committed a capital felony before the bill's effective date and are sentenced or resentenced on or after the bill's effective date, the bill eliminates the option of a death sentence as the penalty. To reflect a change in the sentencing law that took effect on October 1, 1985, the bill makes the punishment life imprisonment without the possibility of release for crimes committed starting October 1, 1985 and life imprisonment if the crime was committed before that date.

The bill eliminates provisions specific to the death penalty such as (1) the sentencing hearing after a capital felony conviction where the jury or the court weighs aggravating and mitigating circumstances to determine whether to impose the death penalty or life imprisonment without possibility of release, (2) special provisions on appeals of death sentences, and (3) the Board of Pardons and Paroles' power to commute death sentences.

The bill specifies that the sentence of life without the possibility of release is without the possibility of parole, sentence reduction, temporary leave, furlough, or any other kind of post-conviction conditional or absolute release. By law, a sentence of life imprisonment without possibility of release is imprisonment for the

remainder of the defendant's natural life.

EFFECTIVE DATE: Upon passage

## **MURDER WITH SPECIAL CIRCUMSTANCES**

The bill makes a number of technical and conforming changes to apply most of the same rules that apply to capital felonies to murder with special circumstances, such as:

1. preserving biological evidence and records of evidence and judicial proceedings,
2. authorizing the court to allow the reading of a victim impact statement in court before imposing the sentence on the defendant,
3. choosing a jury or three-judge panel,
4. challenges of potential jurors, and
5. requiring testimony of at least two witnesses or their equivalent for a conviction.

### ***Bail***

Under the Connecticut Constitution, a person is eligible for bail unless he is charged with a capital offense "where the proof is evident or the presumption great." Thus, most people charged with capital felonies are ineligible for bail. Because murder with special circumstances is not a capital offense, people charged with this crime would be eligible for bail under the constitution. As with capital felonies under current law, people convicted of murder with special circumstances would be ineligible for post-conviction bail while awaiting sentencing or appealing their conviction.

## **BACKGROUND**

### ***Capital Felony***

Currently, a person commits a capital felony if he:

1. murders, while the victim was acting within the scope of his

duties, a police officer, Division of Criminal Justice inspector, state marshal exercising his statutory authority, judicial marshal performing his duties, constable performing law enforcement duties, special policeman, conservation or special conservation officer appointed by the environmental protection commissioner, Department of Correction (DOC) employee or service provider acting within the scope of his employment in a correctional facility and the perpetrator is an inmate, or firefighter;

2. murders for pay or hires someone to murder;
3. murders and was previously convicted of intentional murder or murder while a felony was committed;
4. murders while sentenced to life imprisonment;
5. murders a kidnapped person and is the kidnapper;
6. murders while committing first-degree sexual assault;
7. murders two or more people at the same time or in the course of a single transaction; or
8. murders a person under age 16.

### ***Sentencing Hearing***

Currently, a person convicted of a capital felony must be sentenced to either the death penalty or life imprisonment without the possibility of release. The jury, or the court if the defendant chooses, weighs mitigating and aggravating factors in a separate sentencing hearing to decide whether to impose the death penalty. The jury or court cannot impose the death penalty and must sentence the person to life imprisonment without the possibility of release if mitigating factors outweigh, or are of equal weight to, the aggravating factors or if any of five automatic bars to the death penalty exist. Otherwise, the person must be sentenced to death.

### ***Aggravating Factors***

Currently, the only aggravating factors that the jury or court can

consider are that the defendant:

1. committed the offense while committing or attempting to commit a felony, or while fleeing from the commission of or attempt to commit a felony, and had previously been convicted of the same felony;
2. had been convicted of at least two state or federal offenses prior to the offense, each of which was committed on different occasions, involved serious bodily injury, and had a maximum penalty of at least one year imprisonment;
3. committed the offense knowingly creating a risk of death to another person in addition to the victim of the offense;
4. committed the offense in an especially heinous, cruel, or depraved manner;
5. procured someone else to commit the offense by paying or promising to pay anything of pecuniary value;
6. committed the offense in return for payment or the expectation of payment;
7. committed the offense with an assault weapon; or
8. murdered one of the following people while they were acting within the scope of their duties in order to (a) avoid arrest for or prevent detection of a criminal act, (b) hamper or prevent the victim from carrying out an act within the scope of his official duties, or (c) retaliate against the victim for performing his official duties: a police officer, Division of Criminal Justice inspector, state marshal exercising his statutory authority, judicial marshal performing his duties, constable performing law enforcement duties, special policeman, conservation or special conservation officer appointed by the environmental protection commissioner, DOC employee or service provider acting within the scope of employment in a correctional facility and the perpetrator is an inmate, or firefighter.

### ***Mitigating Factors***

Currently, the jury or court must determine if a particular factor concerning the defendant's character, background, or history or the nature and circumstances of the crime is established by the evidence and whether that factor is mitigating, considering all the facts and circumstances of the case. Mitigating factors are not defenses or excuses for the capital felony of which the defendant was convicted, but are factors that, in fairness and mercy, tend either to extenuate or reduce the defendant's blame for the offense or otherwise provide a reason for a sentence less than death.

### ***Bars to the Death Penalty***

Currently, five factors automatically bar the death penalty. A defendant cannot receive the death penalty if the court or jury determines that:

1. he was under age 18 at the time of the crime;
2. he was mentally retarded at the time of the crime;
3. his mental capacity or ability to conform his conduct to the requirements of law was significantly impaired at the time of the crime (but not so impaired as to constitute a defense);
4. he was guilty of a capital felony only as an accessory and had relatively minor participation; and
5. he could not reasonably have foreseen that his conduct, in the course of committing the crime he was convicted of, would cause someone's death.

### **COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Report  
Yea 24 Nay 15