



House of Representatives

General Assembly

File No. 299

January Session, 2007

House Bill No. 7335

House of Representatives, April 3, 2007

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 PERSISTENT OFFENDERS.

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

1 Section 1. Section 53a-40d of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2007*):

3 (a) A persistent offender of crimes involving assault, stalking,
4 trespass, threatening, harassment, criminal violation of a protective
5 order or criminal violation of a restraining order is a person who (1)
6 stands convicted of assault under section 53a-61, stalking under section
7 53a-181d, threatening under section 53a-62, harassment under section
8 53a-183, criminal violation of a protective order under section 53a-223,
9 criminal violation of a restraining order under section 53a-223b or
10 criminal trespass under section 53a-107 or 53a-108, and (2) has, within
11 the [five] ten years preceding the commission of the present crime,
12 been convicted of a capital felony, a class A felony, a class B felony,
13 except a conviction under section 53a-86 or 53a-122, a class C felony,
14 except a conviction under section 53a-87, 53a-152 or 53a-153, [or] a
15 class D felony under sections 53a-60 to 53a-60c, inclusive, 53a-72a, 53a-

16 72b, 53a-95, 53a-103, 53a-103a, 53a-114, 53a-136 or 53a-216, assault
 17 under section 53a-61, stalking under section 53a-181d, threatening
 18 under section 53a-62, harassment under section 53a-183, criminal
 19 violation of a protective order under section 53a-223, criminal violation
 20 of a restraining order under section 53a-223b, or criminal trespass
 21 under section 53a-107 or 53a-108 or has been released from
 22 incarceration with respect to such conviction, whichever is later.

23 (b) When any person has been found to be a persistent offender of
 24 crimes involving assault, stalking, trespass, threatening, harassment,
 25 criminal violation of a protective order or criminal violation of a
 26 restraining order, and the court is of the opinion that such person's
 27 history and character and the nature and circumstances of such
 28 person's criminal conduct indicate that an increased penalty will best
 29 serve the public interest, the court shall, in lieu of imposing the
 30 sentence authorized for the crime under section 53a-36 or section 53a-
 31 35a, as applicable, impose the sentence of imprisonment authorized by
 32 said section 53a-36 or section 53a-35a for the next more serious degree
 33 of misdemeanor or felony, except that if the crime is a class A
 34 misdemeanor the court shall impose the sentence of imprisonment for
 35 a class D felony, as authorized by section 53a-35a.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	53a-40d

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 chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Judicial Dept.	GF - Revenue Gain	Potential Minimal	Potential Minimal
Judicial Department (Probation); Correction, Dept.	GF - Cost	Potential	Potential

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill extends (from five to ten years) the period of time during which certain offenders may be charged under the persistent offender statutes, which carry enhanced criminal penalties.

The bill could result in a revenue gain from criminal fines and cost for incarceration and/or probation supervision in the community. It is anticipated that relatively few fines would be imposed on an annual basis, and, consequently, any revenue gain under the bill is expected to be minimal. On average, it costs the state approximately \$2,500 annually to supervise an offender on probation in the community as compared to \$41,600 to incarcerate the offender.

The Out Years

The annualized ongoing cost identified above would continue into the future subject to inflation. Potential revenues from criminal fines would remain relatively constant into the future since they are set by statute.

OLR Bill Analysis**HB 7335*****AN ACT CONCERNING PERSISTENT OFFENDERS.*****SUMMARY:**

This bill increases, from five to 10 years, the look-back period at crimes used to determine whether an offender has previous convictions to be considered a persistent offender of crimes involving assault, stalking, trespass, threatening, harassment, and criminal violation of a protective or restraining order.

By law, a person is a persistent offender under this provision if he or she is convicted of 3rd degree assault, 2nd degree stalking, 2nd degree threatening, 2nd degree harassment, criminal violation of a protective or restraining order, or 1st or 2nd degree criminal trespass and has a previous conviction for one of the crimes listed above or:

1. capital or class A felony;
2. class B felony, except 1st degree promoting prostitution and 1st degree larceny;
3. class C felony, except 2nd degree promoting prostitution and bribing jurors;
4. 2nd degree assault with or without a firearm or involving an elderly, blind, disabled, pregnant, or mentally retarded person;
5. 3rd degree sexual assault with or without a firearm;
6. 1st degree unlawful restraint;
7. 3rd degree burglary with or without a firearm;
8. reckless burning;

9. 3rd degree robbery; or
10. criminal use of a firearm or electronic defense weapon.

Under current law, the person must have been convicted of or released from prison for committing the previous crime within five years of committing the subsequent crime. The bill increases this look-back period for previous crimes from five to 10 years.

By law, a persistent offender under this provision is subject to heightened penalties. If the court finds that the person's history and character and the nature and circumstances of the crime indicate that an increased penalty best serves the public interest, the court must impose the sentence for the next most serious degree of misdemeanor or felony. (For example, in the case of a class A misdemeanor, the penalty is increased to a class D felony.)

EFFECTIVE DATE: October 1, 2007

BACKGROUND

Crimes

The following list shows the crimes that a person must be convicted of under this persistent offender statute and their normal penalties:

1. 3rd degree assault—class A misdemeanor with a one year mandatory minimum if the person causes physical injury with a deadly weapon, dangerous instrument, or electronic defense weapon by criminal negligence;
2. stalking—class A misdemeanor;
3. 2nd degree threatening—class A misdemeanor;
4. 2nd degree harassment—class C misdemeanor;
5. criminal violation of a protective order—class D felony;
6. criminal violation of a restraining order—class D felony;

- 7. 1st degree criminal trespass – class A misdemeanor; and
- 8. 2nd degree criminal trespass – class B misdemeanor.

Table on Penalties

Terms of imprisonment in Connecticut must be for specific periods of time. The table below shows the range within which the judge must set the specific sentence for classified crimes. The judge also sets the exact amount of a fine, up to the established limits. A judge may impose a fine, a term of imprisonment, or both.

<i>Classification</i>	<i>Prison Term</i>	<i>Maximum Fine</i>
Capital felony	Execution or life in prison without release	NA
Class A felony (murder)	25 to 60 years	\$20,000
Class A felony	10 to 25 years	\$20,000
Class B felony	1 to 20 years	\$15,000
Class C felony	1 to 10 years	\$10,000
Class D felony	1 to 5 years	\$5,000
Class A misdemeanor	Up to 1 year	\$2,000
Class B misdemeanor	Up to six months	\$1,000
Class C misdemeanor	Up to three months	\$500

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 29 Nay 11 (03/21/2007)