



General Assembly

January Session, 2007

Raised Bill No. 126

LCO No. 902

00902_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

**AN ACT ADOPTING CERTAIN RECOMMENDATIONS OF THE
JUDICIAL BRANCH PUBLIC ACCESS TASK FORCE.**

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

1 Section 1. (NEW) (*Effective July 1, 2007*) (a) For the purposes of this
2 section and sections 2 to 4, inclusive, of this act, "meeting" means a
3 hearing or other proceeding of (1) the rules committee of the Superior
4 Court, (2) the rules committee of the Appellate Court, (3) the annual
5 meeting of the judges of the Superior Court, (4) the executive
6 committee of the Superior Court, (5) a multi-member judicial entity
7 established by rules of court, statute or administrative authority of the
8 judges of the Superior Court, the Appellate Court or the Supreme
9 Court, or (6) any subcommittee of the bodies specified in subdivisions
10 (1) to (5), inclusive, of this subsection.

11 (b) "Meeting" does not include any meeting of a personnel search
12 committee for executive level employment candidates; any chance
13 meeting, or a social meeting neither planned nor intended for the
14 purpose of discussing matters relating to official business; strategy or
15 negotiations with respect to collective bargaining; an administrative or
16 staff meeting of a single member committee or task force; and

17 communications limited to notice of meeting of any public agency or
18 the agendas thereof. A quorum of the members of a committee, entity
19 or other body included in the definition of meeting under subsection
20 (a) of this section who are present at any event other than a meeting of
21 the committee, entity or body of which they are a member shall not be
22 deemed to be at a meeting of that committee, entity or body, provided
23 no discussion of official business related to their committee, entity or
24 body occurs.

25 (c) Except as otherwise provided by statute or rules of court, any
26 meeting shall be open to the public. Notice of the time and place of
27 such a meeting, as well as a copy of the agenda for such a meeting,
28 shall be posted on the Internet web site of the Judicial Branch at least
29 forty-eight hours in advance of the meeting.

30 (d) Notwithstanding the provisions of subsection (c) of this section,
31 a meeting concerning the education and training of judges shall not be
32 open to the public.

33 Sec. 2. (NEW) (*Effective July 1, 2007*) (a) Upon motion and a two-
34 thirds vote of the members present and voting at a meeting, the
35 members may go into closed session (1) for any purpose permitted by
36 the Freedom of Information Act, as defined in section 1-200 of the
37 general statutes, or (2) if a public session would have a deleterious
38 impact on debate or the receipt of information and thereby
39 substantially impede the ability of the committee or entity to perform
40 its duties. Any motion to go into closed session shall specify the
41 permissible purpose, in accordance with the Freedom of Information
42 Act, as defined in section 1-200 of the general statutes, for the closed
43 session, or the reason a public session would have a deleterious impact
44 on debate or the receipt of information. The closed session may
45 continue only so long as needed to serve those purposes.

46 (b) No vote shall be taken at a closed session except as permitted
47 pursuant to the Freedom of Information Act, as defined in section 1-
48 200 of the general statutes.

49 (c) Public sessions that may have a deleterious impact on debate or
50 receipt of information, and for which a closed session would be
51 permissible under subsection (a) of this section, include, but are not
52 limited to, situations where: (1) The information sought to be disclosed
53 would invade "personal privacy" as that term has been construed in
54 subsection (b) of section 1-210 of the general statutes, (2) disclosure or
55 discussion of information would be likely to give a party to pending or
56 impending litigation a procedural or tactical advantage, or (3) the
57 members determine that their need for information is obtainable only
58 on a promise of confidentiality and outweighs the public's interest in
59 attending the portion of the meeting at which the confidential
60 information will be received or debated.

61 Sec. 3. (NEW) (*Effective July 1, 2007*) (a) Any meeting that is open to
62 the public and scheduled in a court facility may be broadcast,
63 televised, recorded or photographed.

64 (b) Members of the media attending a meeting with equipment to
65 broadcast, televise, record or photograph that meeting may only use
66 such equipment in connection with that meeting. A judicial marshal
67 shall ensure that such equipment is being used in accordance with this
68 subsection.

69 (c) A committee, entity or other body that schedules a meeting in a
70 court facility shall notify the administrative judge for that judicial
71 district of such meeting.

72 Sec. 4. (NEW) (*Effective July 1, 2007*) (a) For the purposes of this
73 section, "administrative record" means information maintained by the
74 Judicial Branch pertaining to the administration of the Judicial Branch
75 with respect to the budget, personnel, facilities and physical operations
76 of the Judicial Branch that is not associated with any particular case
77 and includes (1) summaries, indices, minutes and official records of
78 any meeting, and (2) information maintained or stored by the Judicial
79 Branch, not otherwise exempted, in all paper and electronic platforms
80 and formats.

81 (b) Except as otherwise provided by law, administrative records
82 shall be open to the public.

83 (c) The Chief Court Administrator shall create and maintain a
84 retention schedule for administrative records.

85 Sec. 5. (NEW) (*Effective July 1, 2007*) (a) All complaints received by
86 the Office of the Chief Court Administrator regarding the conduct of a
87 judge shall be reviewed by the Chief Court Administrator to determine
88 if there is reason to believe that the allegations warrant further
89 investigation by the Judicial Review Council. If the Chief Court
90 Administrator determines that such further investigation is warranted,
91 he or she shall refer such complaint to the Judicial Review Council for
92 investigation and action in accordance with chapter 872a of the general
93 statutes.

94 (b) If the Chief Court Administrator determines that the complaint
95 is (1) without merit, (2) properly the subject of review through an
96 existing adjudicatory procedure, or (3) otherwise not within the
97 purview of the Office of the Chief Court Administrator, such
98 complaint shall not be open to the public.

99 (c) If the Chief Court Administrator determines that the complaint
100 warrants administrative action, but does not rise to the level that is
101 appropriate for referral to the Judicial Review Council, the Chief Court
102 Administrator may issue an admonishment in accordance with section
103 51-45a of the general statutes.

104 Sec. 6. (NEW) (*Effective July 1, 2007*) The Judicial Branch shall adopt
105 a policy on public access to court records that is in accordance with the
106 principle that all court records are presumptively open and that court
107 records should be closed to the public only if there is a compelling
108 reason to do so.

109 Sec. 7. (NEW) (*Effective July 1, 2007*) The Judicial Branch shall make
110 the criminal docket of the Superior Court, including the docket

111 number, name of the defendant, date of birth of the defendant and
112 charge, available to the public on its Internet web site. If the Judicial
113 Branch determines that there is a serious risk of identity theft in
114 posting the date of birth of a defendant on the web site, it may post a
115 redacted version of the date of birth such as only the month and year
116 of birth.

117 Sec. 8. (NEW) (*Effective July 1, 2007*) The Judicial Branch shall make
118 conviction information, as defined in section 54-142g of the general
119 statutes, available to the public on its Internet web site. Such
120 information shall include the docket number of the case, name of the
121 defendant, date of arrest, charges and disposition including any fine,
122 term of imprisonment and term of probation imposed by the court, but
123 shall not include the address or motor vehicle operator license number
124 of the defendant. Such information shall be searchable by name of
125 defendant, date of birth of defendant and docket number. If the
126 Judicial Branch determines that there is a serious risk of identity theft
127 in posting the date of birth of a defendant on the web site, it may post
128 a redacted version of the date of birth such as only the month and year
129 of birth. Conviction information with respect to misdemeanors shall
130 not be available to the public on the Judicial Branch or other public
131 agency web site after five years from the date of the conviction.

132 Sec. 9. (NEW) (*Effective July 1, 2007*) Whenever an arrest is made in
133 connection with the execution of a search warrant, any motion filed by
134 a prosecuting authority seeking to extend an order of the court issued
135 under section 54-33c of the general statutes sealing or limiting the
136 disclosure of an affidavit upon which such search warrant was based
137 shall be heard by the court on the record. Any such extension shall be
138 until a date certain and shall not exceed ninety days.

139 Sec. 10. (NEW) (*Effective July 1, 2007*) Any police report used during
140 a court hearing as the basis for a judicial determination of probable
141 cause, whether or not probable cause has been found, shall be made
142 part of the court file and be open to the public unless the court, on

143 motion of any party or on its own motion, orders, for good cause
144 shown, all or a portion of the report to be sealed. If such motion is
145 granted, the moving party may make a recommendation within seven
146 days as to the details of the sealing order. If no such recommendation
147 is made, the report shall be made public.

148 Sec. 11. Subsection (d) of section 54-56d of the general statutes is
149 repealed and the following is substituted in lieu thereof (*Effective July*
150 *1, 2007*):

151 (d) If the court finds that the request for an examination is justified
152 and that, in accordance with procedures established by the judges of
153 the Superior Court, there is probable cause to believe that the
154 defendant has committed the crime for which the defendant is
155 charged, the court shall order an examination of the defendant as to his
156 or her competency. The court may (1) appoint one or more physicians
157 specializing in psychiatry to examine the defendant, or (2) order the
158 Commissioner of Mental Health and Addiction Services to conduct the
159 examination either (A) by a clinical team consisting of a physician
160 specializing in psychiatry, a clinical psychologist and one of the
161 following: A clinical social worker licensed pursuant to chapter 383b or
162 a psychiatric nurse clinical specialist holding a master's degree in
163 nursing, or (B) by one or more physicians specializing in psychiatry,
164 except that no employee of the Department of Mental Health and
165 Addiction Services who has served as a member of a clinical team in
166 the course of such employment for at least five years prior to October
167 1, 1995, shall be precluded from being appointed as a member of a
168 clinical team. If the Commissioner of Mental Health and Addiction
169 Services is ordered to conduct the examination, the commissioner shall
170 select the members of the clinical team or the physician or physicians.
171 If the examiners determine that the defendant is not competent, the
172 examiners shall then determine whether there is a substantial
173 probability that the defendant, if provided with a course of treatment,
174 will regain competency within the maximum period of any placement
175 order under this section. If the examiners determine that there is a

176 substantial probability that the defendant, if provided with a course of
177 treatment, will regain competency within the maximum period of any
178 placement order under this section, the examiners shall then determine
179 whether the defendant appears to be eligible for civil commitment,
180 with monitoring by the Court Support Services Division, pursuant to
181 subdivision (2) of subsection (h) of this section. The court may
182 authorize a physician specializing in psychiatry, a clinical
183 psychologist, a clinical social worker licensed pursuant to chapter 383b
184 or a psychiatric nurse clinical specialist holding a master's degree in
185 nursing selected by the defendant to observe the examination. Counsel
186 for the defendant may observe the examination. The examination shall
187 be completed within fifteen days from the date it was ordered and the
188 examiners shall prepare and sign, without notarization, a written
189 report and file such report with the court within twenty-one business
190 days of the date of the order. On receipt of the written report, the clerk
191 of the court shall cause copies to be delivered immediately to the
192 state's attorney and to counsel for the defendant. The court shall, but
193 only as to the public, order the written report sealed. The written
194 report shall not be open to the public unless it is introduced at the
195 hearing under subsection (e) of this section, a participant at such
196 hearing relies upon such report for his or her testimony, the
197 questioning of witnesses or arguments to the court or the court makes
198 findings based on such report.

199 Sec. 12. Subsection (a) of section 53a-39a of the general statutes is
200 repealed and the following is substituted in lieu thereof (*Effective July*
201 *1, 2007*):

202 (a) In all cases where a defendant has been convicted of a
203 misdemeanor or a felony, other than a capital felony, a class A felony
204 or a violation of section 21a-278, 21a-278a, 53a-55, 53a-56, 53a-56b, 53a-
205 57, 53a-58 or 53a-70b or any other offense for which there is a
206 mandatory minimum sentence which may not be suspended or
207 reduced by the court, after trial or by a plea of guilty without trial, and
208 a term of imprisonment is part of a stated plea agreement or the

209 statutory penalty provides for a term of imprisonment, the court may,
210 in its discretion, order an assessment for placement in an alternate
211 incarceration program under contract with the Judicial Department. If
212 the Court Support Services Division recommends placement in an
213 alternate incarceration program, it shall also submit to the court a
214 proposed alternate incarceration plan. Upon completion of the
215 assessment, the court shall determine whether such defendant shall be
216 ordered to participate in such program as an alternative to
217 incarceration. If the court determines that the defendant shall
218 participate in such program, the court shall suspend any sentence of
219 imprisonment and shall make participation in the alternate
220 incarceration program a condition of probation as provided in section
221 53a-30. An alternate incarceration assessment report prepared
222 pursuant to this subsection shall be sealed upon filing with the court. If
223 the court orders the defendant to participate in such alternate
224 incarceration program, the report shall be unsealed and open to the
225 public.

226 Sec. 13. (NEW) (*Effective July 1, 2007*) For the purposes of sections 14
227 to 16, inclusive, of this act, "media" means:

228 (1) Any newspaper, magazine or other periodical, book publisher,
229 news agency, wire service, radio or television station or network, cable
230 or satellite or other transmission system or carrier, or channel or
231 programming service for such station, network, system or carrier, or
232 audio or audiovisual production company that disseminates
233 information to the public, whether by print, broadcast, photographic,
234 mechanical, electronic or any other means or medium; and

235 (2) Any person who is or has been an employee, agent or
236 independent contractor of any entity specified in subdivision (1) of this
237 section and is or has been engaged in gathering, preparing or
238 disseminating information to the public for such entity, or any other
239 person supervising or assisting such person with gathering, preparing
240 or disseminating information.

241 Sec. 14. (NEW) (*Effective July 1, 2007*) (a) All appellate proceedings in
242 the Supreme Court and Appellate Court are presumed to be open to
243 the public and to electronic coverage by the media.

244 (b) Unless a timely motion is made to limit or preclude the
245 broadcasting, televising, videotaping, audio recording or
246 photographing of an appellate proceeding by a party or victim in a
247 case, or by the court on its own motion, all such proceedings may be so
248 broadcast, televised, taped, recorded or photographed.

249 (c) If a motion is made to limit or preclude the broadcasting,
250 televising, videotaping, audio recording or photographing of an
251 appellate procedure, the court shall determine, after providing an
252 opportunity for the parties, any victim and the media to be heard on
253 the issue, whether to limit or preclude electronic coverage of the
254 proceeding. The court shall not limit public access to or electronic
255 coverage of appellate proceedings unless there is a compelling reason
256 to do so, there are no reasonable alternatives to such limitation and the
257 limitation is no broader than necessary to protect the compelling
258 interest at issue.

259 (d) If the Supreme Court or Appellate Court closes an appellate
260 proceeding to the public or limits or precludes electronic coverage of
261 an appellate proceeding by the media, the court shall make such
262 decision in open court and state the reasons for such decision on the
263 record.

264 Sec. 15. (NEW) (*Effective July 1, 2007*) (a) The Judicial Branch shall
265 establish in a single judicial district from July 1, 2007, to July 1, 2009, a
266 pilot program to allow the coverage of criminal proceedings by all
267 forms of media including still cameras, video cameras and audio
268 recordings.

269 (b) The Judicial Branch shall take appropriate steps to ensure that
270 the judges, parties, attorneys, media and public are aware that criminal
271 proceedings may be subject to media coverage.

272 (c) Absent good cause shown, the media shall provide advance
273 notice of their intent to use still cameras, video cameras or audio
274 recording. The trial judge shall, to the extent possible, consult in
275 advance with the media about anticipated coverage of the proceedings.

276 (d) Any party, attorney, witness or victim may object in advance of
277 pretrial proceedings, trial or sentencing to the use of cameras, video
278 cameras or audio recording if there is a substantial reason to believe
279 that such media coverage would undermine the rights of the
280 defendant or significantly compromise the safety or legitimate privacy
281 concerns of a witness. The parties, as well as a witness or victim whose
282 rights may be affected by media coverage of the proceedings, and the
283 media, may participate in the hearing to determine whether to limit or
284 preclude media coverage of the proceedings. The person seeking to
285 limit or preclude media coverage of the proceedings shall have the
286 burden of proof.

287 (e) Notwithstanding the absence of an objection to media coverage
288 of a proceeding, the trial court may propose to limit or preclude such
289 coverage when it reasonably believes that such coverage would
290 undermine the rights of the defendant or compromise legitimate
291 concerns about security or about a person's safety or privacy. The court
292 shall provide notice to the defendant, the state, any victim, the media
293 and other persons whose interests may be affected by a decision on
294 media coverage of the proceedings and permit such persons to
295 participate in the hearing.

296 (f) The court shall, after a hearing, decide whether to limit or
297 preclude the use of cameras, video cameras or audio recording after
298 consideration of the rights asserted. The court shall not limit public
299 access to or media coverage of the proceedings unless there is a
300 compelling reason to do so, there are no reasonable alternatives to such
301 limitation and the limitation is no broader than necessary to protect the
302 compelling interest at issue. The court shall take into account special
303 considerations that may arise such as the testimony of children, alleged

304 victims of sexual offenses, confidential informants and undercover
305 officers. Neither agreement of the parties nor a general statement by
306 the court that it does not favor media coverage generally or in a
307 particular category of cases shall be sufficient grounds for limiting or
308 precluding media coverage of the proceedings.

309 (g) Objections raised during the course of a criminal proceeding to
310 the photographing, video taping or audio recording of specific aspects
311 of the proceeding, individuals or exhibits shall be heard and decided
312 by the court in accordance with the same standards used to determine
313 whether to limit or preclude access based on objections raised before
314 the start of the proceeding.

315 (h) There shall be no videotaping, audio recording or
316 photographing of jurors. There shall be no videotaping or audio
317 recording of trial proceedings when the jury has been excused from the
318 courtroom unless the court determines that such coverage does not
319 create a risk to the rights of the defendant or to a fair trial.

320 (i) Cameras, video cameras and audio recording equipment shall be
321 used only in the courtrooms, be placed in the courtroom in the
322 locations designated by the Judicial Branch to ensure maximum
323 coverage of the proceedings and minimize any disruption, and be set
324 up and taken down only when the court proceedings are in recess.

325 (j) Nothing in this section shall be construed to eliminate the
326 existing authority of the trial court to take reasonable measures to
327 preserve order in the courtroom and to ensure a fair trial.

328 Sec. 16. (NEW) (*Effective July 1, 2007*) (a) Media coverage of civil
329 proceedings in the Superior Court shall be permitted subject to the
330 provisions of this section and except where a courtroom is closed in
331 accordance with statute or rule of court.

332 (b) The Judicial Branch shall take appropriate steps to ensure that
333 the judges, parties, attorneys, media and public are aware that most

334 civil proceedings are subject to media coverage.

335 (c) Absent good cause shown, the media shall provide three-day
336 advance notice of their intent to use still cameras, video cameras or
337 audio recording. The trial judge shall, to the extent possible, consult in
338 advance with the media about anticipated coverage of the proceedings.

339 (d) Any party, attorney, witness or victim may object in advance of
340 pretrial proceedings or trials to the use of cameras, video cameras or
341 audio recording if there is a substantial reason to believe that such
342 media coverage would undermine the rights of a party to a civil
343 proceeding or significantly compromise the safety or legitimate
344 privacy concerns of a witness. The parties, as well as a witness or
345 victim whose rights may be affected by media coverage of the
346 proceedings, and the media, may participate in the hearing to
347 determine whether to limit or preclude media coverage of the
348 proceedings. The person seeking to limit or preclude media coverage
349 of the proceedings shall have the burden of proof.

350 (e) Notwithstanding the absence of an objection to media coverage
351 of a proceeding, the trial court may propose to limit or preclude such
352 coverage when it reasonably believes that such coverage would
353 undermine the rights of a party or compromise legitimate concerns
354 about security or about a person's safety or privacy. The court shall
355 provide notice to the parties, the media and other persons whose
356 interests may be affected by a decision on media coverage of the
357 proceedings and permit such persons to participate in the hearing.

358 (f) The court shall, after a hearing, decide whether to limit or
359 preclude the use of cameras, video cameras or audio recording after
360 consideration of the rights asserted. The court shall not limit public
361 access to or media coverage of the proceedings unless there is a
362 compelling reason to do so, there are no reasonable alternatives to such
363 limitation and the limitation is no broader than necessary to protect the
364 compelling interest at issue. The court shall take into account special
365 considerations that may arise such as when children or alleged victims

366 of sexual offenses testify or when there may be additional legitimate
367 privacy concerns as in civil commitment proceedings. Neither
368 agreement of the parties nor a general statement by the court that it
369 does not favor media coverage generally or in a particular category of
370 cases shall be sufficient grounds for limiting or precluding media
371 coverage of the proceedings.

372 (g) Objections raised during the course of a civil proceeding to the
373 photographing, video taping or audio recording of specific aspects of
374 the proceeding, individuals or exhibits shall be heard and decided by
375 the court in accordance with the same standards used to determine
376 whether to limit or preclude access based on objections raised before
377 the start of a proceeding.

378 (h) There shall be no videotaping, audio recording or
379 photographing of jurors. There shall be no videotaping or audio
380 recording of trial proceedings when the jury has been excused from the
381 courtroom unless the court determines that such coverage does not
382 create a risk to the rights of the defendant or to a fair trial.

383 (i) Cameras, video cameras and audio recording equipment shall be
384 used only in the courtrooms, be placed in the courtroom in the
385 locations designated by the Judicial Branch to ensure maximum
386 coverage of the proceedings and minimize any disruption, and be set
387 up and taken down only when the court proceedings are in recess.

388 (j) Nothing in this section shall be construed to eliminate the
389 existing authority of the trial court to take reasonable measures to
390 preserve order in the courtroom and to ensure a fair trial.

391 Sec. 17. (NEW) (*Effective July 1, 2007*) Nothing in sections 1 to 10,
392 inclusive, of this act, sections 13 to 16, inclusive, of this act, subsection
393 (d) of section 54-56d and subsection (a) of section 53a-39a of the
394 general statutes, as amended by this act, shall be construed to impede
395 or diminish the authority and obligation of a judge to conduct fair and
396 unbiased trials and proceedings. A judge has the responsibility to

397 ensure the safety of persons while such persons are in the courtroom
 398 and, to the extent possible, after such persons leave the courtroom.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2007</i>	New section
Sec. 2	<i>July 1, 2007</i>	New section
Sec. 3	<i>July 1, 2007</i>	New section
Sec. 4	<i>July 1, 2007</i>	New section
Sec. 5	<i>July 1, 2007</i>	New section
Sec. 6	<i>July 1, 2007</i>	New section
Sec. 7	<i>July 1, 2007</i>	New section
Sec. 8	<i>July 1, 2007</i>	New section
Sec. 9	<i>July 1, 2007</i>	New section
Sec. 10	<i>July 1, 2007</i>	New section
Sec. 11	<i>July 1, 2007</i>	54-56d(d)
Sec. 12	<i>July 1, 2007</i>	53a-39a(a)
Sec. 13	<i>July 1, 2007</i>	New section
Sec. 14	<i>July 1, 2007</i>	New section
Sec. 15	<i>July 1, 2007</i>	New section
Sec. 16	<i>July 1, 2007</i>	New section
Sec. 17	<i>July 1, 2007</i>	New section

Statement of Purpose:

To adopt certain recommendations of the Judicial Branch's Public Access Task Force to ensure the maximum degree of public access to the courts consistent with the needs of the courts in discharging their core functions of adjudicating and managing cases.

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