



General Assembly

Substitute Bill No. 1398

January Session, 2007

* SB01398JUD__041307__ *

AN ACT CONCERNING COURT OPERATIONS.

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

1 Section 1. Subsection (a) of section 51-36 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective July*
3 *1, 2007*):

4 (a) The Chief Court Administrator may cause any and all court
5 records, papers or documents, and all other records, papers or
6 documents maintained by the judicial branch, required to be retained
7 indefinitely or for a period of time defined by (1) rules of court, (2)
8 directives promulgated by the Office of the Chief Court Administrator,
9 or (3) statute, to be microfilmed or reproduced as a computerized
10 image. The device used to reproduce such records, papers or
11 documents on microfilm or as a computerized image shall be one
12 which accurately reproduces the original thereof in detail. Such
13 microfilm or computerized image shall be considered and treated the
14 same as the original records, papers or documents, provided a
15 certificate of authenticity appears on each roll of microfilm and a paper
16 or electronic certificate of authenticity is associated with each
17 computerized image in accordance with policies and procedures
18 adopted by the Office of the Chief Court Administrator. A transcript,
19 exemplification or certified copy thereof shall for all purposes be
20 deemed to be a transcript, exemplification or certified copy of the

21 original. The original [court] records, papers or documents so
22 reproduced may be disposed of in such manner as approved by the
23 Office of the Chief Court Administrator. For the purposes of this
24 subsection, "microfilm" includes microcard, microfiche,
25 microphotograph, electronic medium or any other process which
26 actually reproduces or forms a durable medium for so reproducing the
27 original, and "computerized image" means any electronic reproduction
28 of the original by a computer-based imaging system or process.

29 Sec. 2. Subsection (d) of section 51-36 of the general statutes is
30 repealed and the following is substituted in lieu thereof (*Effective July*
31 *1, 2007*):

32 (d) All court records other than records concerning title to land may
33 be destroyed in accordance with rules of court. Records concerning
34 title to land shall not be subject to any such destruction, [and may be
35 retained in an electronic format,] except that official notes and tapes of
36 evidence or judicial proceedings concerning title to land may be
37 destroyed. Records concerning title to land may be retained in an
38 electronic format. All court records may be transferred to any agency
39 of this state or to any federal agency in accordance with rules of court
40 or directives promulgated by the Office of the Chief Court
41 Administrator, provided records in any action concerning title to land
42 terminated by a final judgment affecting any right, title or interest in
43 real property shall be retained for not less than forty years in the office
44 of the clerk of the court location in which the judgment was rendered.
45 Any other judicial branch books, records, papers or documents may be
46 destroyed or transferred to any agency of this state or to any federal
47 agency in accordance with directives promulgated by the Office of the
48 Chief Court Administrator.

49 Sec. 3. Section 52-180 of the general statutes is repealed and the
50 following is substituted in lieu thereof (*Effective October 1, 2007*):

51 (a) Any writing or record, whether in the form of an entry in a book
52 or otherwise, made as a memorandum or record of any act,

53 transaction, occurrence or event, shall be admissible as evidence of the
54 act, transaction, occurrence or event, if the trial judge finds that it was
55 made in the regular course of any business, and that it was the regular
56 course of the business to make the writing or record at the time of the
57 act, transaction, occurrence or event or within a reasonable time
58 thereafter.

59 (b) The writing or record shall not be rendered inadmissible by (1) a
60 party's failure to produce as witnesses the person or persons who
61 made the writing or record, or who have personal knowledge of the
62 act, transaction, occurrence or event recorded, or (2) the party's failure
63 to show that such persons are unavailable as witnesses. Either of such
64 facts and all other circumstances of the making of the writing or
65 record, including lack of personal knowledge by the entrant or maker,
66 may be shown to affect the weight of the evidence, but not to affect its
67 admissibility.

68 (c) Except as provided in the Freedom of Information Act, as
69 defined in section 1-200, if any person in the regular course of business
70 has kept or recorded any memorandum, writing, entry, print,
71 representation or combination thereof, of any act, transaction,
72 occurrence or event, and in the regular course of business has caused
73 any or all of them to be recorded, copied or reproduced by any
74 photographic, photostatic, microfilm, microcard, miniature
75 photographic, computer-based imaging or other process which
76 accurately reproduces or forms a durable medium for so reproducing
77 the original, the original may be destroyed in the regular course of
78 business unless its preservation is otherwise required by statute. The
79 reproduction, when satisfactorily identified, shall be as admissible in
80 evidence as the original in any judicial or administrative proceeding,
81 whether the original is in existence or not, and an enlargement or
82 facsimile of the reproduction shall be likewise admissible in evidence if
83 the original reproduction is in existence and available for inspection
84 under direction of court. The introduction of a reproduced record,
85 enlargement or facsimile shall not preclude admission of the original.

86 (d) [The term "business" shall include] For the purposes of this
87 section, "business" includes any business, profession, occupation [and
88 calling of every kind] or calling.

89 Sec. 4. Section 52-259b of the general statutes is repealed and the
90 following is substituted in lieu thereof (*Effective October 1, 2007*):

91 (a) In any civil or criminal matter, if the court finds that a party is
92 indigent and unable to pay a fee or fees payable to the court or to pay
93 the cost of service of process, the court shall waive such fee or fees and
94 the cost of service of process shall be paid by the state.

95 (b) There shall be a rebuttable presumption that a person is indigent
96 and unable to pay a fee or fees or the cost of service of process if (1)
97 such person receives public assistance, or (2) such person's income
98 after taxes, mandatory wage deductions and child care expenses is one
99 hundred twenty-five per cent or less of the federal poverty level. For
100 the purposes of this subsection, "public assistance" includes, but is not
101 limited to, state-administered general assistance, temporary family
102 assistance, aid to the aged, blind and disabled, food stamps and
103 Supplemental Security Income.

104 (c) Nothing in this section shall preclude the court from finding that
105 a person whose income does not meet the criteria of subsection (b) of
106 this section is indigent and unable to pay a fee or fees or the cost of
107 service of process. If an application for the waiver of the payment of a
108 fee or fees or the cost of service of process is denied, the court clerk
109 shall, upon the request of the applicant, schedule a hearing on the
110 application.

111 (d) Any copying fee payable to the court clerk pursuant to section
112 52-259 shall be waived for a person who is indigent and unable to pay
113 such fee, in accordance with criteria established by the judicial branch.

114 Sec. 5. Subsection (a) of section 53a-39a of the general statutes is
115 repealed and the following is substituted in lieu thereof (*Effective*
116 *October 1, 2007*):

117 (a) In all cases where a defendant has been convicted of a
118 misdemeanor or a felony, other than a capital felony, a class A felony
119 or a violation of section 21a-278, 21a-278a, 53a-55, 53a-56, 53a-56b, 53a-
120 57, 53a-58 or 53a-70b or any other offense for which there is a
121 mandatory minimum sentence which may not be suspended or
122 reduced by the court, after trial or by a plea of guilty without trial, and
123 a term of imprisonment is part of a stated plea agreement or the
124 statutory penalty provides for a term of imprisonment, the court may,
125 in its discretion, order an assessment for placement in an alternate
126 incarceration program under contract with the Judicial Department. If
127 the Court Support Services Division recommends placement in an
128 alternate incarceration program, it shall also submit to the court a
129 proposed alternate incarceration plan. Upon completion of the
130 assessment, the court shall determine whether such defendant shall be
131 ordered to participate in such program as an alternative to
132 incarceration. If the court determines that the defendant shall
133 participate in such program, the court shall suspend any sentence of
134 imprisonment and shall make participation in the alternate
135 incarceration program a condition of probation as provided in section
136 53a-30. If the court orders the defendant to participate in an alternate
137 incarceration program pursuant to such alternate incarceration plan,
138 such plan shall be a matter of public record.

139 Sec. 6. Section 54-33c of the general statutes is repealed and the
140 following is substituted in lieu thereof (*Effective October 1, 2007*):

141 (a) The applicant for the search warrant shall file the application for
142 the warrant and all affidavits upon which the warrant is based with
143 the clerk of the court for the geographical area within which any
144 person who may be arrested in connection with or subsequent to the
145 execution of the search warrant would be presented with the return of
146 the warrant. The warrant shall be executed within ten days and
147 returned with reasonable promptness consistent with due process of
148 law and shall be accompanied by a written inventory of all property
149 seized. A copy of such warrant shall be given to the owner or occupant
150 of the dwelling, structure, motor vehicle or place designated therein, or

151 the person named therein. Within forty-eight hours of such search, a
152 copy of the application for the warrant and a copy of all affidavits
153 upon which the warrant is based shall be given to such owner,
154 occupant or person. The judge or judge trial referee may, by order,
155 dispense with the requirement of giving a copy of the affidavits to
156 such owner, occupant or person at such time if the applicant for the
157 warrant files a detailed affidavit with the judge or judge trial referee
158 which demonstrates to the judge or judge trial referee that (1) the
159 personal safety of a confidential informant would be jeopardized by
160 the giving of a copy of the affidavits at such time, [or] (2) the search is
161 part of a continuing investigation [which] that would be adversely
162 affected by the giving of a copy of the affidavits at such time, or (3) the
163 giving of such affidavits at such time would require disclosure of
164 information or material prohibited from being disclosed by chapter
165 959a. If the judge or judge trial referee dispenses with the requirement
166 of giving a copy of the affidavits at such time, such order shall not
167 affect the right of such owner, occupant or person to obtain such copy
168 at any subsequent time. No such order shall limit the disclosure of
169 such affidavits to the attorney for a person arrested in connection with
170 or subsequent to the execution of a search warrant unless, upon
171 motion of the prosecuting authority within two weeks of such person's
172 arraignment, the court finds that the state's interest in continuing
173 nondisclosure substantially outweighs the defendant's right to
174 disclosure.

175 (b) Any order dispensing with the requirement of giving a copy of
176 the warrant application and accompanying affidavits to such owner,
177 occupant or person within forty-eight hours shall be for a specific
178 period of time, not to exceed two weeks beyond the date the warrant is
179 executed. Within that time period, the prosecuting authority may seek
180 an extension of such period. Upon the execution and return of the
181 warrant, affidavits which have been the subject of such an order shall
182 remain in the custody of the clerk's office in a secure location apart
183 from the remainder of the court file.

184 (c) Any request by the prosecuting authority, made subsequent to

185 an arrest, to extend an order sealing an affidavit in support of a search
186 warrant shall be a matter of public record. An extension of the order
187 shall be granted if the court finds that the order is necessary to
188 preserve an interest that is determined to override the public's interest
189 in viewing the affidavit, or for good cause shown. An oral
190 representation by the prosecuting authority that (1) the personal safety
191 of a confidential informant would be jeopardized, (2) the search is part
192 of a continuing investigation that would be adversely affected, or (3)
193 the unsealing of the affidavit would require disclosure of information
194 or material prohibited from being disclosed by chapter 959a may be
195 sufficient to establish good cause. Any such extension shall be to a date
196 certain, not to exceed ninety days from the date of the request. The
197 prosecuting authority may seek more than one such extension, but no
198 single extension shall exceed ninety days.

199 Sec. 7. Subsection (d) of section 54-56d of the general statutes is
200 repealed and the following is substituted in lieu thereof (*Effective*
201 *October 1, 2007*):

202 (d) If the court finds that the request for an examination is justified
203 and that, in accordance with procedures established by the judges of
204 the Superior Court, there is probable cause to believe that the
205 defendant has committed the crime for which the defendant is
206 charged, the court shall order an examination of the defendant as to his
207 or her competency. The court may (1) appoint one or more physicians
208 specializing in psychiatry to examine the defendant, or (2) order the
209 Commissioner of Mental Health and Addiction Services to conduct the
210 examination either (A) by a clinical team consisting of a physician
211 specializing in psychiatry, a clinical psychologist and one of the
212 following: A clinical social worker licensed pursuant to chapter 383b or
213 a psychiatric nurse clinical specialist holding a master's degree in
214 nursing, or (B) by one or more physicians specializing in psychiatry,
215 except that no employee of the Department of Mental Health and
216 Addiction Services who has served as a member of a clinical team in
217 the course of such employment for at least five years prior to October
218 1, 1995, shall be precluded from being appointed as a member of a

219 clinical team. If the Commissioner of Mental Health and Addiction
220 Services is ordered to conduct the examination, the commissioner shall
221 select the members of the clinical team or the physician or physicians.
222 If the examiners determine that the defendant is not competent, the
223 examiners shall then determine whether there is a substantial
224 probability that the defendant, if provided with a course of treatment,
225 will regain competency within the maximum period of any placement
226 order under this section. If the examiners determine that there is a
227 substantial probability that the defendant, if provided with a course of
228 treatment, will regain competency within the maximum period of any
229 placement order under this section, the examiners shall then determine
230 whether the defendant appears to be eligible for civil commitment,
231 with monitoring by the Court Support Services Division, pursuant to
232 subdivision (2) of subsection (h) of this section. The court may
233 authorize a physician specializing in psychiatry, a clinical
234 psychologist, a clinical social worker licensed pursuant to chapter 383b
235 or a psychiatric nurse clinical specialist holding a master's degree in
236 nursing selected by the defendant to observe the examination. Counsel
237 for the defendant may observe the examination. The examination shall
238 be completed within fifteen days from the date it was ordered and the
239 examiners shall prepare and sign, without notarization, a written
240 report and file such report with the court within twenty-one business
241 days of the date of the order. On receipt of the written report, the clerk
242 of the court shall cause copies to be delivered immediately to the
243 state's attorney and to counsel for the defendant. The written report
244 shall be sealed, but only as to the public, and the contents of the report
245 shall not be disclosed, except during any hearing as to the competency
246 of the defendant at which such contents are relied upon by a
247 participant as the basis for testimony, questioning of witnesses,
248 arguments to the court or judicial findings.

249 Sec. 8. Subsection (f) of section 54-56d of the general statutes is
250 repealed and the following is substituted in lieu thereof (*Effective*
251 *October 1, 2007*):

252 (f) If the court, after the hearing, finds that the defendant is

253 competent, the court shall continue with the criminal proceedings. If
254 the court finds that the defendant is not competent, the court shall also
255 find whether there is a substantial probability that the defendant, if
256 provided with a course of treatment, will regain competency within
257 the maximum period of any placement order permitted under this
258 section. The court shall state on the record the reasons for the court's
259 finding that the defendant is competent or not competent.

260 Sec. 9. Subsection (b) of section 54-56g of the general statutes is
261 repealed and the following is substituted in lieu thereof (*Effective*
262 *October 1, 2007*):

263 (b) The court, after consideration of the recommendation of the
264 state's attorney, assistant state's attorney or deputy assistant state's
265 attorney in charge of the case, may, in its discretion, grant such
266 application. If the court grants such application, it shall refer such
267 person to the Court Support Services Division for assessment and
268 confirmation of the eligibility of the applicant and to the Department
269 of Mental Health and Addiction Services for evaluation. The Court
270 Support Services Division, in making its assessment and confirmation,
271 may rely on the representations made by the applicant under oath in
272 open court with respect to convictions in other states of offenses
273 specified in subsection (a) of this section. Upon confirmation of
274 eligibility and receipt of the evaluation report, the defendant shall be
275 referred to the Department of Mental Health and Addiction Services
276 by the Court Support Services Division for placement in an
277 appropriate alcohol intervention program for one year, or be placed in
278 a state-licensed substance abuse treatment program. Any person who
279 enters the system shall agree: (1) To the tolling of the statute of
280 limitations with respect to such crime, (2) to a waiver of such person's
281 right to a speedy trial, (3) to complete ten or fifteen counseling sessions
282 in an alcohol intervention program or successfully complete a
283 substance abuse treatment program of not less than twelve sessions
284 pursuant to this section dependent upon the evaluation report and the
285 court order, (4) upon completion of participation in the alcohol
286 intervention program, to accept placement in a treatment program

287 upon recommendation of a provider under contract with the
288 Department of Mental Health and Addiction Services pursuant to
289 subsection (d) of this section or placement in a state-licensed treatment
290 program which meets standards established by the Department of
291 Mental Health and Addiction Services, if the Court Support Services
292 Division deems it appropriate, and (5) if ordered by the court, to
293 participate in at least one victim impact panel. The suspension of the
294 motor vehicle operator's license of any such person pursuant to section
295 14-227b shall be effective during the period such person is
296 participating in such program, provided such person shall have the
297 option of not commencing the participation in such program until the
298 period of such suspension is completed. If the Court Support Services
299 Division informs the court that the defendant is ineligible for the
300 system and the court makes a determination of ineligibility or if the
301 program provider certifies to the court that the defendant did not
302 successfully complete the assigned program or is no longer amenable
303 to treatment, the court shall order the court file to be unsealed, enter a
304 plea of not guilty for such defendant and immediately place the case
305 on the trial list. If such defendant satisfactorily completes the assigned
306 program, such defendant may apply for dismissal of the charges
307 against such defendant and the court, on reviewing the record of the
308 defendant's participation in such program submitted by the Court
309 Support Services Division and on finding such satisfactory completion,
310 shall dismiss the charges. If the defendant does not apply for dismissal
311 of the charges against such defendant after satisfactorily completing
312 the assigned program the court, upon receipt of the record of the
313 defendant's participation in such program submitted by the Court
314 Support Services Division, may on its own motion make a finding of
315 such satisfactory completion and dismiss the charges. Upon motion of
316 the defendant and a showing of good cause, the court may extend the
317 one-year placement period for a reasonable period for the defendant to
318 complete the assigned program. A record of participation in such
319 program shall be retained by the Court Support Services Division for a
320 period of [seven] ten years from the date of application. The Court
321 Support Services Division shall transmit to the Department of Motor

322 Vehicles a record of participation in such program for each person who
 323 satisfactorily completes such program. The Department of Motor
 324 Vehicles shall maintain for a period of [seven] ten years the record of a
 325 person's participation in such program as part of such person's driving
 326 record. The Court Support Services Division shall transmit to the
 327 Department of Environmental Protection the record of participation of
 328 any person who satisfactorily completes such program who has been
 329 charged with a violation of the provisions of section 15-133, 15-140l or
 330 15-140n. The Department of Environmental Protection shall maintain
 331 for a period of [seven] ten years the record of a person's participation
 332 in such program as a part of such person's boater certification record.

333 Sec. 10. Section 54-143b of the general statutes is repealed and the
 334 following is substituted in lieu thereof (*Effective October 1, 2007*):

335 The total amount of any forfeited bond for a motor vehicle violation,
 336 when such bond is composed in part of an additional fee established
 337 under [subsection (c) of] section 51-56a, any cost established under
 338 subsection (b) of section 54-143 or any cost established under section
 339 54-143a, shall be deposited in the General Fund as one undifferentiated
 340 lump sum amount or deposited in the Special Transportation Fund as
 341 one undifferentiated lump sum amount as may be required by statute.

342 Sec. 11. (*Effective July 1, 2007*) (a) The sum of one million dollars is
 343 appropriated to the Judicial Department, from the General Fund, for
 344 the fiscal year ending June 30, 2008, for an evaluation of security in
 345 courthouse parking areas.

346 (b) The sum of nine million dollars is appropriated to the Judicial
 347 Department, from the General Fund, for the fiscal year ending June 30,
 348 2008, for the installation of courthouse security systems.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2007</i>	51-36(a)
Sec. 2	<i>July 1, 2007</i>	51-36(d)

Sec. 3	<i>October 1, 2007</i>	52-180
Sec. 4	<i>October 1, 2007</i>	52-259b
Sec. 5	<i>October 1, 2007</i>	53a-39a(a)
Sec. 6	<i>October 1, 2007</i>	54-33c
Sec. 7	<i>October 1, 2007</i>	54-56d(d)
Sec. 8	<i>October 1, 2007</i>	54-56d(f)
Sec. 9	<i>October 1, 2007</i>	54-56g(b)
Sec. 10	<i>October 1, 2007</i>	54-143b
Sec. 11	<i>July 1, 2007</i>	New section

JUD *Joint Favorable Subst.*