



House of Representatives

General Assembly

File No. 549

February Session, 2008

Substitute House Bill No. 5533

House of Representatives, April 9, 2008

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

AN ACT CONCERNING THE SEXUAL ASSAULT OF CHILDREN.

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

1 Section 1. Subsection (a) of section 53a-29 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective July*
3 *1, 2008*):

4 (a) The court may sentence a person to a period of probation upon
5 conviction of any crime, [other than] except a class A felony other than
6 a violation of section 53a-70 that is punishable under subdivision (2) of
7 subsection (b) of said section, if it is of the opinion that: (1) Present or
8 extended institutional confinement of the defendant is not necessary
9 for the protection of the public; (2) the defendant is in need of
10 guidance, training or assistance which, in [his] the defendant's case,
11 can be effectively administered through probation supervision; and (3)
12 such disposition is not inconsistent with the ends of justice.

13 Sec. 2. Section 54-85a of the general statutes is repealed and the
14 following is substituted in lieu thereof (*Effective July 1, 2008*):

15 (a) In any criminal prosecution, the court, upon motion of the state
16 or the defendant, shall cause any witness to be sequestered during the
17 hearing on any issue or motion or any part of the trial of such
18 prosecution in which [he] such witness is not testifying.

19 (b) The provisions of this section shall not apply to a witness in any
20 criminal prosecution of an offense involving assault, sexual assault or
21 abuse of a child twelve years of age or younger if such witness is an
22 adult who is known to the child and with whom the child feels
23 comfortable and has been authorized by the court pursuant to
24 subdivision (2) of subsection (b) of section 54-86g to sit in close
25 proximity to the child during the child's testimony.

26 Sec. 3. Section 51-277c of the general statutes is repealed and the
27 following is substituted in lieu thereof (*Effective July 1, 2008*):

28 In the investigation and prosecution of crime, priority shall be given
29 to crimes involving physical violence, [and to] crimes involving the
30 possession of a firearm and crimes involving assault, sexual assault or
31 abuse of a child.

32 Sec. 4. (NEW) (*Effective July 1, 2008*) Any criminal prosecution of an
33 offense involving assault, sexual assault or abuse of a child in which
34 the defendant has entered a plea of not guilty shall be privileged with
35 respect to assignment for trial.

36 Sec. 5. Section 54-86l of the 2008 supplement to the general statutes
37 is repealed and the following is substituted in lieu thereof (*Effective July*
38 *1, 2008*):

39 (a) Notwithstanding any other rule of evidence or provision of law,
40 a statement by a child under thirteen years of age relating to a sexual
41 offense committed against that child, or an offense involving physical
42 abuse committed against that child by [a person or persons who had
43 authority or apparent authority] such child's parent or guardian or any
44 other person exercising comparable authority over the child, shall be
45 admissible in a criminal or juvenile proceeding if: (1) The court finds,

46 in a hearing conducted outside the presence of the jury, if any, that the
47 circumstances of the statement, including its timing and content,
48 provide particularized guarantees of its trustworthiness, (2) the
49 statement was not made in preparation for a legal proceeding, (3) the
50 proponent of the statement makes known to the adverse party an
51 intention to offer the statement and the particulars of the statement
52 including the content of the statement, the approximate time, date and
53 location of the statement, the person to whom the statement was made
54 and the circumstances surrounding the statement that indicate its
55 trustworthiness, at such time as to provide the adverse party with a
56 fair opportunity to prepare to meet it, and (4) either (A) the child
57 testifies and is subject to cross-examination at the proceeding, or (B)
58 the child is unavailable as a witness and (i) there is independent
59 nontestimonial corroborative evidence of the alleged act, and (ii) the
60 statement was made prior to the defendant's arrest or institution of
61 juvenile proceedings in connection with the act described in the
62 statement.

63 (b) Nothing in this section shall be construed to (1) prevent the
64 admission of any statement under another hearsay exception, (2) allow
65 broader definitions in other hearsay exceptions for statements made by
66 children under thirteen years of age at the time of the statement
67 concerning any alleged act described in subsection (a) of this section
68 than is done for other declarants, or (3) allow the admission pursuant
69 to the residual hearsay exception of a statement described in
70 subsection (a) of this section.

71 Sec. 6. Subdivision (3) of subsection (b) of section 1-210 of the 2008
72 supplement to the general statutes is repealed and the following is
73 substituted in lieu thereof (*Effective July 1, 2008*):

74 (3) Records of law enforcement agencies not otherwise available to
75 the public which records were compiled in connection with the
76 detection or investigation of crime, if the disclosure of said records
77 would not be in the public interest because it would result in the
78 disclosure of (A) the identity of informants not otherwise known or the

79 identity of witnesses not otherwise known whose safety would be
80 endangered or who would be subject to threat or intimidation if their
81 identity was made known, (B) signed statements of witnesses, (C)
82 information to be used in a prospective law enforcement action if
83 prejudicial to such action, (D) investigatory techniques not otherwise
84 known to the general public, (E) arrest records of a juvenile, which
85 shall also include any investigatory files, concerning the arrest of such
86 juvenile, compiled for law enforcement purposes, (F) the name and
87 address of the victim of a sexual assault under section 53a-70, 53a-70a,
88 53a-70c of the 2008 supplement to the general statutes, 53a-71 of the
89 2008 supplement to the general statutes, 53a-72a, as amended by this
90 act, 53a-72b or 53a-73a of the 2008 supplement to the general statutes,
91 or injury or risk of injury, or impairing of morals under section 53-21 of
92 the 2008 supplement to the general statutes, or of an attempt thereof,
93 or (G) uncorroborated allegations subject to destruction pursuant to
94 section 1-216.

95 Sec. 7. Subsection (a) of section 10a-55a of the 2008 supplement to
96 the general statutes is repealed and the following is substituted in lieu
97 thereof (*Effective July 1, 2008*):

98 (a) On or before September 1, 1991, and annually thereafter, each
99 institution of higher education shall prepare in such manner as the
100 Commissioner of Higher Education shall prescribe a uniform campus
101 crime report concerning crimes committed in the immediately
102 preceding calendar year within the geographical limits of the property
103 owned or under the control of such institution. Such report shall be in
104 accordance with the uniform crime reporting system pursuant to
105 section 29-1c, provided such report is limited to those offenses
106 included in part I of the most recently published edition of the
107 Uniform Crime Reports for the United States as authorized by the
108 Federal Bureau of Investigation and the United States Department of
109 Justice and sexual assault under sections 53a-70, 53a-70a, 53a-70b, 53a-
110 70c of the 2008 supplement to the general statutes, 53a-71 of the 2008
111 supplement to the general statutes, 53a-72a, as amended by this act,
112 53a-72b and 53a-73a of the 2008 supplement to the general statutes.

113 The state police, local police departments and special police forces
114 established pursuant to section 10a-142 shall cooperate with
115 institutions of higher education in preparing such reports. Institutions
116 with more than one campus shall prepare such reports for each
117 campus.

118 Sec. 8. Subsection (b) of section 17b-749k of the general statutes is
119 repealed and the following is substituted in lieu thereof (*Effective July*
120 *1, 2008*):

121 (b) The Commissioner of Social Services shall have the discretion to
122 refuse payments for child care under any financial assistance program
123 administered by him if the person providing such child care has been
124 convicted in this state or any other state of a felony, as defined in
125 section 53a-25, involving the use, attempted use or threatened use of
126 physical force against another person, of cruelty to persons under
127 section 53-20, injury or risk of injury to or impairing morals of children
128 under section 53-21 of the 2008 supplement to the general statutes,
129 abandonment of children under the age of six years under section 53-
130 23 or any felony where the victim of the felony is a child under
131 eighteen years of age, or of a violation of section 53a-70, 53a-70a, 53a-
132 70b, 53a-70c of the 2008 supplement to the general statutes, 53a-71 of
133 the 2008 supplement to the general statutes, 53a-72a, as amended by
134 this act, 53a-72b or 53a-73a of the 2008 supplement to the general
135 statutes, or has a criminal record or was the subject of a substantiated
136 report of child abuse in this state or any other state that the
137 commissioner reasonably believes renders the person unsuitable to
138 provide child care.

139 Sec. 9. Subsection (a) of section 19a-87a of the general statutes is
140 repealed and the following is substituted in lieu thereof (*Effective July*
141 *1, 2008*):

142 (a) The Commissioner of Public Health shall have the discretion to
143 refuse to license under sections 19a-77 to 19a-80, inclusive, and 19a-82
144 to 19a-87, inclusive, a person to conduct, operate or maintain a day
145 care center or a group day care home, as defined in section 19a-77 of

146 the 2008 supplement to the general statutes, or to suspend or revoke
147 the license or take any other action set forth in regulation that may be
148 adopted pursuant to section 19a-79 of the 2008 supplement to the
149 general statutes if, the person who owns, conducts, maintains or
150 operates such center or home or a person employed therein in a
151 position connected with the provision of care to a child receiving child
152 day care services, has been convicted in this state or any other state of
153 a felony as defined in section 53a-25 involving the use, attempted use
154 or threatened use of physical force against another person, of cruelty to
155 persons under section 53-20, injury or risk of injury to or impairing
156 morals of children under section 53-21 of the 2008 supplement to the
157 general statutes, abandonment of children under the age of six years
158 under section 53-23, or any felony where the victim of the felony is a
159 child under eighteen years of age, or of a violation of section 53a-70,
160 53a-70a, 53a-70b, 53a-70c of the 2008 supplement to the general
161 statutes, 53a-71 of the 2008 supplement to the general statutes, 53a-72a,
162 as amended by this act, 53a-72b or 53a-73a of the 2008 supplement to
163 the general statutes, or has a criminal record in this state or any other
164 state that the commissioner reasonably believes renders the person
165 unsuitable to own, conduct, operate or maintain or be employed by a
166 child day care center or group day care home. However, no refusal of a
167 license shall be rendered except in accordance with the provisions of
168 sections 46a-79 to 46a-81, inclusive.

169 Sec. 10. Subsection (a) of section 19a-87e of the general statutes is
170 repealed and the following is substituted in lieu thereof (*Effective July*
171 *1, 2008*):

172 (a) The Commissioner of Public Health may refuse to license under
173 section 19a-87b of the 2008 supplement to the general statutes, a person
174 to own, conduct, operate or maintain a family day care home, as
175 defined in section 19a-77 of the 2008 supplement to the general
176 statutes, or to suspend or revoke the license or take any other action
177 that may be set forth in regulation that may be adopted pursuant to
178 section 19a-79 of the 2008 supplement to the general statutes if the
179 person who owns, conducts, maintains or operates the family day care

180 home, or a person employed in such family day care home in a
181 position connected with the provision of care to a child receiving child
182 day care services, has been convicted, in this state or any other state of
183 a felony, as defined in section 53a-25, involving the use, attempted use
184 or threatened use of physical force against another person, or has a
185 criminal record in this state or any other state that the commissioner
186 reasonably believes renders the person unsuitable to own, conduct,
187 operate or maintain or be employed by a family day care home, or if
188 such persons or a person residing in the household has been convicted
189 in this state or any other state of cruelty to persons under section 53-20,
190 injury or risk of injury to or impairing morals of children under section
191 53-21 of the 2008 supplement to the general statutes, abandonment of
192 children under the age of six years under section 53-23, or any felony
193 where the victim of the felony is a child under eighteen years of age, a
194 violation of section 53a-70, 53a-70a, 53a-70b, 53a-70c of the 2008
195 supplement to the general statutes, 53a-71 of the 2008 supplement to
196 the general statutes, 53a-72a, as amended by this act, 53a-72b or 53a-
197 73a of the 2008 supplement to the general statutes, illegal manufacture,
198 distribution, sale, prescription, dispensing or administration under
199 section 21a-277 or 21a-278 of the 2008 supplement to the general
200 statutes, or illegal possession under section 21a-279, or if such person,
201 or a person employed in such family day care home in a position
202 connected with the provision of care to a child receiving child day care
203 services, either fails to substantially comply with the regulations
204 adopted pursuant to section 19a-87b of the 2008 supplement to the
205 general statutes or conducts, operates or maintains the home in a
206 manner which endangers the health, safety and welfare of the children
207 receiving child day care services. Any refusal of a license pursuant to
208 this section shall be rendered in accordance with the provisions of
209 sections 46a-79 to 46a-81, inclusive. Any person whose license has been
210 revoked pursuant to this section shall be ineligible to apply for a
211 license for a period of one year from the effective date of revocation.

212 Sec. 11. Section 19a-112b of the general statutes is repealed and the
213 following is substituted in lieu thereof (*Effective July 1, 2008*):

214 The Department of Public Health shall provide to victims of a
215 sexual act constituting a violation of section 53-21 of the 2008
216 supplement to the general statutes, 53a-70, 53a-70a, 53a-70b, 53a-70c of
217 the 2008 supplement to the general statutes, 53a-71 of the 2008
218 supplement to the general statutes, 53a-72a, as amended by this act,
219 53a-72b or 53a-73a of the 2008 supplement to the general statutes,
220 regardless of whether any person is convicted or adjudicated
221 delinquent for such violation, the following services: (1) Counseling
222 regarding human immunodeficiency virus and acquired immune
223 deficiency syndrome; (2) HIV-related testing; and (3) referral service
224 for appropriate health care and support services. Such services shall be
225 provided through counseling and testing sites funded by the
226 Department of Public Health.

227 Sec. 12. Subdivision (5) of subsection (a) of section 19a-112e of the
228 2008 supplement to the general statutes is repealed and the following
229 is substituted in lieu thereof (*Effective July 1, 2008*):

230 (5) "Sexual offense" means a violation of subsection (a) of section
231 53a-70, section 53a-70a, [or] 53a-70b or 53a-70c of the 2008 supplement
232 to the general statutes, subsection (a) of section 53a-71 of the 2008
233 supplement to the general statutes, section 53a-72a, as amended by this
234 act, or 53a-72b, subdivision (2) of subsection (a) of section 53a-86,
235 subdivision (2) of subsection (a) of section 53a-87 or section 53a-90a of
236 the 2008 supplement to the general statutes, 53a-196a of the 2008
237 supplement to the general statutes or 53a-196b.

238 Sec. 13. Subdivision (10) of subsection (c) of section 19a-343 of the
239 general statutes is repealed and the following is substituted in lieu
240 thereof (*Effective July 1, 2008*):

241 (10) Sexual assault under section 53a-70, [or] 53a-70a or 53a-70c of
242 the 2008 supplement to the general statutes.

243 Sec. 14. Section 46b-38h of the general statutes is repealed and the
244 following is substituted in lieu thereof (*Effective July 1, 2008*):

245 If any person is convicted of a violation of section 53a-59, 53a-59a,
246 53a-60, 53a-60a, 53a-60b, 53a-60c, 53a-70, 53a-70a, 53a-70b, 53a-70c of
247 the 2008 supplement to the general statutes, 53a-71 of the 2008
248 supplement to the general statutes, 53a-72a, as amended by this act,
249 53a-72b, 53a-181c, 53a-181d, 53a-181e, 53a-223, 53a-223a or 53a-223b,
250 against a family or household member, as defined in section 46b-38a,
251 or a person in a dating relationship, the court shall include a
252 designation that such conviction involved domestic violence on the
253 court record for the purposes of criminal history record information, as
254 defined in subsection (a) of section 54-142g.

255 Sec. 15. Subsection (a) of section 52-161b of the general statutes is
256 repealed and the following is substituted in lieu thereof (*Effective July*
257 *1, 2008*):

258 (a) A pro se litigant in any civil matter, including a habeas corpus
259 proceeding, shall notify the clerk of the court if such litigant has been
260 convicted of a family violence crime, as defined in section 46b-38a, or a
261 violation of section 53-21 of the 2008 supplement to the general
262 statutes, 53a-70, 53a-70a, 53a-70b, 53a-70c of the 2008 supplement to
263 the general statutes, 53a-71 of the 2008 supplement to the general
264 statutes, 53a-72a, as amended by this act, 53a-72b, 53a-73a of the 2008
265 supplement to the general statutes, 53a-181c, 53a-181d or 53a-181e and
266 if the subject of a subpoena to be issued by such litigant in such matter
267 is the victim of the crime for which such litigant was convicted.

268 Sec. 16. Section 52-577e of the general statutes is repealed and the
269 following is substituted in lieu thereof (*Effective July 1, 2008*):

270 Notwithstanding the provisions of sections 52-577 and 52-577d, an
271 action to recover damages for personal injury caused by sexual assault
272 may be brought at any time after the date of the act complained of if
273 the party legally at fault for such injury has been convicted of a
274 violation of section 53a-70, [or] 53a-70a or 53a-70c of the 2008
275 supplement to the general statutes.

276 Sec. 17. Subsection (a) of section 52-598 of the general statutes is

277 repealed and the following is substituted in lieu thereof (*Effective July*
278 *1, 2008*):

279 (a) No execution to enforce a judgment for money damages
280 rendered in any court of this state may be issued after the expiration of
281 twenty years from the date the judgment was entered and no action
282 based upon such a judgment may be instituted after the expiration of
283 twenty-five years from the date the judgment was entered, except that
284 there shall be no time limitation on the issuance of such execution or
285 the institution of such action if the judgment was rendered in an action
286 to recover damages for personal injury caused by sexual assault where
287 the party legally at fault for such injury was convicted of a violation of
288 section 53a-70, [or] 53a-70a or 53a-70c of the 2008 supplement to the
289 general statutes.

290 Sec. 18. Subsection (a) of section 53a-40 of the general statutes, as
291 amended by section 6 of public act 08-1 of the January special session,
292 is repealed and the following is substituted in lieu thereof (*Effective July*
293 *1, 2008*):

294 (a) A persistent dangerous felony offender is a person who:

295 (1) (A) Stands convicted of manslaughter, arson, kidnapping,
296 robbery in the first or second degree, assault in the first degree, home
297 invasion, burglary in the first degree or burglary in the second degree
298 with a firearm, and (B) has been, prior to the commission of the present
299 crime, convicted of and imprisoned under a sentence to a term of
300 imprisonment of more than one year or of death, in this state or in any
301 other state or in a federal correctional institution, for any of the
302 following crimes: (i) The crimes enumerated in subparagraph (A) of
303 this subdivision or an attempt to commit any of said crimes; or (ii)
304 murder, sexual assault in the first or third degree, aggravated sexual
305 assault in the first degree, aggravated sexual assault of a minor or
306 sexual assault in the third degree with a firearm, or an attempt to
307 commit any of said crimes; or (iii) prior to October 1, 1975, any of the
308 crimes enumerated in section 53a-72, 53a-75 or 53a-78 of the general
309 statutes, revision of 1958, revised to 1975, or prior to October 1, 1971, in

310 this state, assault with intent to kill under section 54-117, or any of the
311 crimes enumerated in sections 53-9, 53-10, 53-11, 53-12 to 53-16,
312 inclusive, 53-19, 53-21, 53-69, 53-78 to 53-80, inclusive, 53-82, 53-83, 53-
313 86, 53-238 and 53-239 of the general statutes, revision of 1958, revised
314 to 1968, or any predecessor statutes in this state, or an attempt to
315 commit any of said crimes; or (iv) in any other state, any crimes the
316 essential elements of which are substantially the same as any of the
317 crimes enumerated in subparagraph (A) of this subdivision or this
318 subparagraph; or

319 (2) (A) Stands convicted of sexual assault in the first or third degree,
320 aggravated sexual assault in the first degree, aggravated sexual assault
321 of a minor or sexual assault in the third degree with a firearm, and (B)
322 has been, prior to the commission of the present crime, convicted of
323 and imprisoned under a sentence to a term of imprisonment of more
324 than one year or of death, in this state or in any other state or in a
325 federal correctional institution, for any of the following crimes: (i)
326 Murder, manslaughter, arson, kidnapping, robbery in the first or
327 second degree, assault in the first degree, home invasion, burglary in
328 the first degree or burglary in the second degree with a firearm, or an
329 attempt to commit any of said crimes; or (ii) prior to October 1, 1971, in
330 this state, assault with intent to kill under section 54-117, or any of the
331 crimes enumerated in sections 53-9, 53-10, 53-11, 53-12 to 53-16,
332 inclusive, 53-19, 53-21, 53-69, 53-78 to 53-80, inclusive, 53-82, 53-83 and
333 53-86 of the general statutes, revision of 1958, revised to 1968, or any
334 predecessor statutes in this state, or an attempt to commit any of said
335 crimes; or (iii) in any other state, any crimes the essential elements of
336 which are substantially the same as any of the crimes enumerated in
337 subparagraph (A) of this subdivision or this subparagraph.

338 Sec. 19. Subsection (b) of section 53a-40 of the general statutes is
339 repealed and the following is substituted in lieu thereof (*Effective July*
340 *1, 2008*):

341 (b) A persistent dangerous sexual offender is a person who (1)
342 stands convicted of sexual assault in the first or third degree,

343 aggravated sexual assault in the first degree, aggravated sexual assault
344 of a minor or sexual assault in the third degree with a firearm, and (2)
345 has been, prior to the commission of the present crime, convicted of
346 and imprisoned under a sentence to a term of imprisonment of more
347 than one year, in this state or in any other state or in a federal
348 correctional institution, for (A) any of the crimes enumerated in
349 subdivision (1) of this subsection, or (B) prior to October 1, 1975, any of
350 the crimes enumerated in section 53a-72, as amended by this act, 53a-
351 75 or 53a-78 of the general statutes, revision of 1958, revised to 1975, or
352 prior to October 1, 1971, in this state, any of the crimes enumerated in
353 section 53-238 or 53-239 of the general statutes, revision of 1958,
354 revised to 1968, or any predecessor statutes in this state, or an attempt
355 to commit any of said crimes, or (C) in any other state, any crimes the
356 essential elements of which are substantially the same as any of the
357 crimes enumerated in subdivision (1) of this subsection or this
358 subdivision.

359 Sec. 20. Section 53a-40c of the general statutes is repealed and the
360 following is substituted in lieu thereof (*Effective July 1, 2008*):

361 Any person convicted of a violation of section 53a-70, 53a-70a, 53a-
362 70c of the 2008 supplement to the general statutes, 53a-71 of the 2008
363 supplement to the general statutes, 53a-72a, as amended by this act,
364 53a-72b or 53a-73a of the 2008 supplement to the general statutes
365 where the victim of the sexual assault was a person ten years of age or
366 under shall, in addition to any fine or term of imprisonment imposed,
367 be sentenced to undergo psychological counseling.

368 Sec. 21. Subsection (a) of section 53a-40e of the 2008 supplement to
369 the general statutes is repealed and the following is substituted in lieu
370 thereof (*Effective July 1, 2008*):

371 (a) If any person is convicted of (1) a violation of section 53a-59, 53a-
372 59a, 53a-60, 53a-60a, 53a-60b, 53a-60c, 53a-70, 53a-70a, 53a-70b, 53a-70c
373 of the 2008 supplement to the general statutes, 53a-71 of the 2008
374 supplement to the general statutes, 53a-72a, as amended by this act,
375 53a-72b, 53a-181c, 53a-181d, 53a-181e, 53a-182b, 53a-183, 53a-223, 53a-

376 223a or 53a-223b or attempt or conspiracy to violate any of said
377 sections or section 53a-54a, against a family or household member, as
378 defined in section 46b-38a, or (2) any crime that the court determines
379 constitutes a family violence crime, as defined in section 46b-38a, or
380 attempt or conspiracy to commit any such crime, the court may, in
381 addition to imposing the sentence authorized for the crime under
382 section 53a-35a of the 2008 supplement to the general statutes or 53a-
383 36, if the court is of the opinion that the history and character and the
384 nature and circumstances of the criminal conduct of such offender
385 indicate that a standing criminal restraining order will best serve the
386 interest of the victim and the public, issue a standing criminal
387 restraining order which shall remain in effect until modified or
388 revoked by the court for good cause shown. If any person is convicted
389 of any crime against a family or household member, as defined in
390 section 46b-38a, other than a crime specified in subdivision (1) or (2) of
391 this subsection, the court may, for good cause shown, issue a standing
392 criminal restraining order pursuant to this subsection.

393 Sec. 22. Subsection (b) of section 53a-67 of the general statutes is
394 repealed and the following is substituted in lieu thereof (*Effective July*
395 *1, 2008*):

396 (b) In any prosecution for an offense under this part, except an
397 offense under section 53a-70, 53a-70a, 53a-70b, 53a-70c of the 2008
398 supplement to the general statutes, 53a-71 of the 2008 supplement to
399 the general statutes, 53a-72a, as amended by this act, or 53a-72b, it
400 shall be an affirmative defense that the defendant and the alleged
401 victim were, at the time of the alleged offense, living together by
402 mutual consent in a relationship of cohabitation, regardless of the legal
403 status of their relationship.

404 Sec. 23. Section 54-86d of the general statutes is repealed and the
405 following is substituted in lieu thereof (*Effective July 1, 2008*):

406 Any person who has been the victim of a sexual assault under
407 section 53a-70, 53a-70a, 53a-70c of the 2008 supplement to the general
408 statutes, 53a-71 of the 2008 supplement to the general statutes, 53a-72a,

409 as amended by this act, 53a-72b or 53a-73a of the 2008 supplement to
410 the general statutes, or injury or risk of injury, or impairing of morals
411 under section 53-21 of the 2008 supplement to the general statutes, or
412 of an attempt thereof, shall not be required to divulge his or her
413 address or telephone number during any trial or pretrial evidentiary
414 hearing arising from the sexual assault or injury or risk of injury to, or
415 impairing of morals of, children; provided the judge presiding over
416 such legal proceeding shall find: (1) Such information is not material to
417 the proceeding, (2) the identity of the victim has been satisfactorily
418 established, and (3) the current address of the victim will be made
419 available to the defense in the same manner and time as such
420 information is made available to the defense for other criminal
421 offenses.

422 Sec. 24. Section 54-86e of the general statutes is repealed and the
423 following is substituted in lieu thereof (*Effective July 1, 2008*):

424 The name and address of the victim of a sexual assault under
425 section 53a-70, 53a-70a, 53a-70c of the 2008 supplement to the general
426 statutes, 53a-71 of the 2008 supplement to the general statutes, 53a-72a,
427 as amended by this act, 53a-72b or 53a-73a of the 2008 supplement to
428 the general statutes, or injury or risk of injury, or impairing of morals
429 under section 53-21 of the 2008 supplement to the general statutes, or
430 of an attempt thereof, and such other identifying information
431 pertaining to such victim as determined by the court, shall be
432 confidential and shall be disclosed only upon order of the Superior
433 Court, except that (1) such information shall be available to the
434 accused in the same manner and time as such information is available
435 to persons accused of other criminal offenses, and (2) if a protective
436 order is issued in a prosecution under any of said sections, the name
437 and address of the victim, in addition to the information contained in
438 and concerning the issuance of such order, shall be entered in the
439 registry of protective orders pursuant to section 51-5c.

440 Sec. 25. Section 54-86f of the general statutes is repealed and the
441 following is substituted in lieu thereof (*Effective July 1, 2008*):

442 In any prosecution for sexual assault under sections 53a-70, 53a-70a,
443 53a-70c of the 2008 supplement to the general statutes, and 53a-71 to
444 53a-73a, inclusive, no evidence of the sexual conduct of the victim may
445 be admissible unless such evidence is (1) offered by the defendant on
446 the issue of whether the defendant was, with respect to the victim, the
447 source of semen, disease, pregnancy or injury, or (2) offered by the
448 defendant on the issue of credibility of the victim, provided the victim
449 has testified on direct examination as to his or her sexual conduct, or
450 (3) any evidence of sexual conduct with the defendant offered by the
451 defendant on the issue of consent by the victim, when consent is raised
452 as a defense by the defendant, or (4) otherwise so relevant and material
453 to a critical issue in the case that excluding it would violate the
454 defendant's constitutional rights. Such evidence shall be admissible
455 only after a hearing on a motion to offer such evidence containing an
456 offer of proof. On motion of either party the court may order such
457 hearing held in camera, subject to the provisions of section 51-164x. If
458 the proceeding is a trial with a jury, such hearing shall be held in the
459 absence of the jury. If, after hearing, the court finds that the evidence
460 meets the requirements of this section and that the probative value of
461 the evidence outweighs its prejudicial effect on the victim, the court
462 may grant the motion. The testimony of the defendant during a
463 hearing on a motion to offer evidence under this section may not be
464 used against the defendant during the trial if such motion is denied,
465 except that such testimony may be admissible to impeach the
466 credibility of the defendant if the defendant elects to testify as part of
467 the defense.

468 Sec. 26. Subsection (a) of section 54-86j of the general statutes is
469 repealed and the following is substituted in lieu thereof (*Effective July*
470 *1, 2008*):

471 (a) No member of any municipal police department, the state police
472 or the Division of Criminal Justice may request or require any victim of
473 a sexual assault under section 53a-70, 53a-70a, 53a-70b, 53a-70c of the
474 2008 supplement to the general statutes, 53a-71 of the 2008 supplement
475 to the general statutes, 53a-72a, as amended by this act, 53a-72b or 53a-

476 73a of the 2008 supplement to the general statutes to submit to or take
477 a polygraph examination.

478 Sec. 27. Subsection (a) of section 54-102b of the general statutes is
479 repealed and the following is substituted in lieu thereof (*Effective July*
480 *1, 2008*):

481 (a) Notwithstanding any provision of the general statutes, except as
482 provided in subsection (b) of this section, a court entering a judgment
483 of conviction or an adjudication of delinquency for a violation of
484 section 53a-70, 53a-70a, 53a-70b, 53a-70c of the 2008 supplement to the
485 general statutes or 53a-71 of the 2008 supplement to the general
486 statutes or a violation of section 53-21 of the 2008 supplement to the
487 general statutes, 53a-72a, as amended by this act, 53a-72b or 53a-73a of
488 the 2008 supplement to the general statutes involving a sexual act,
489 shall, at the request of the victim of such crime, order that the offender
490 be tested for the presence of the etiologic agent for acquired immune
491 deficiency syndrome or human immunodeficiency virus and that the
492 results be disclosed to the victim and the offender. The test shall be
493 performed by or at the direction of the Department of Correction in
494 consultation with the Department of Public Health.

495 Sec. 28. Subsection (c) of section 54-125e of the 2008 supplement to
496 the general statutes is repealed and the following is substituted in lieu
497 thereof (*Effective July 1, 2008*):

498 (c) The period of special parole shall be not less than one year or
499 more than ten years, except that such period may be for more than ten
500 years for a person convicted of a violation of subdivision (2) of section
501 53-21 of the general statutes in effect prior to October 1, 2000,
502 subdivision (2) of subsection (a) of section 53-21 of the 2008
503 supplement to the general statutes or section 53a-70, 53a-70a, 53a-70b,
504 53a-70c of the 2008 supplement to the general statutes, 53a-71 of the
505 2008 supplement to the general statutes, 53a-72a, as amended by this
506 act, or 53a-72b or sentenced as a persistent dangerous felony offender
507 pursuant to subsection (h) of section 53a-40 or as a persistent serious
508 felony offender pursuant to subsection (j) of section 53a-40.

509 Sec. 29. Section 54-143c of the general statutes is repealed and the
510 following is substituted in lieu thereof (*Effective July 1, 2008*):

511 In addition to any fine, fee or cost that may be imposed pursuant to
512 any provision of the general statutes, the court shall impose a fine of
513 one hundred fifty-one dollars on any person who, on or after July 1,
514 2004, is convicted of or pleads guilty or nolo contendere to a violation
515 of subdivision (2) of subsection (a) of section 53-21 of the 2008
516 supplement to the general statutes or section 53a-70, 53a-70a, 53a-70b,
517 53a-70c of the 2008 supplement to the general statutes, 53a-71 of the
518 2008 supplement to the general statutes, 53a-72a, as amended by this
519 act, 53a-72b or 53a-73a of the 2008 supplement to the general statutes.
520 Fines collected under this section shall be deposited in the sexual
521 assault victims account established under section 19a-112d.

522 Sec. 30. Section 54-193b of the 2008 supplement to the general
523 statutes is repealed and the following is substituted in lieu thereof
524 (*Effective July 1, 2008*):

525 Notwithstanding the provisions of sections 54-193 and 54-193a,
526 there shall be no limitation of time within which a person may be
527 prosecuted for a violation of section 53a-70, 53a-70a, 53a-70b, 53a-70c
528 of the 2008 supplement to the general statutes, 53a-71 of the 2008
529 supplement to the general statutes, 53a-72a, as amended by this act, or
530 53a-72b, provided (1) the victim notified any police officer or state's
531 attorney acting in such police officer's or state's attorney's official
532 capacity of the commission of the offense not later than five years after
533 the commission of the offense, and (2) the identity of the person who
534 allegedly committed the offense has been established through a DNA
535 (deoxyribonucleic acid) profile comparison using evidence collected at
536 the time of the commission of the offense.

537 Sec. 31. Subdivision (14) of section 54-240 of the general statutes is
538 repealed and the following is substituted in lieu thereof (*Effective July*
539 *1, 2008*):

540 (14) "Sexual assault" means any act that constitutes a violation of

541 section 53a-70, 53a-70a, 53a-70b, 53a-70c of the 2008 supplement to the
542 general statutes, 53a-71 of the 2008 supplement to the general statutes,
543 53a-72a, as amended by this act, 53a-72b or 53a-73a of the 2008
544 supplement to the general statutes.

545 Sec. 32. Subdivision (11) of section 54-250 of the general statutes is
546 repealed and the following is substituted in lieu thereof (*Effective July*
547 *1, 2008*):

548 (11) "Sexually violent offense" means (A) a violation of section
549 53a-70, except subdivision (2) of subsection (a) of said section, 53a-70a,
550 53a-70b, 53a-70c of the 2008 supplement to the general statutes, 53a-71
551 of the 2008 supplement to the general statutes, except subdivision (1),
552 (4), (8) or (10) or subparagraph (B) of subdivision (9) of subsection (a)
553 of said section or subparagraph (A) of subdivision (9) of subsection (a)
554 of said section if the court makes a finding that, at the time of the
555 offense, the victim was under eighteen years of age, 53a-72a, as
556 amended by this act, except subdivision (2) of subsection (a) of said
557 section, or 53a-72b, or of section 53a-92 or 53a-92a, provided the court
558 makes a finding that the offense was committed with intent to sexually
559 violate or abuse the victim, (B) a violation of any of the offenses
560 specified in subparagraph (A) of this subdivision for which a person is
561 criminally liable under section 53a-8, 53a-48 or 53a-49, or (C) a
562 violation of any predecessor statute to any of the offenses specified in
563 subparagraph (A) or (B) of this subdivision the essential elements of
564 which are substantially the same as said offense.

565 Sec. 33. Subsection (a) of section 54-260 of the general statutes is
566 repealed and the following is substituted in lieu thereof (*Effective July*
567 *1, 2008*):

568 (a) For the purposes of this section, "sexual offender" means any
569 person convicted of a violation of subdivision (2) of section 53-21 of the
570 general statutes in effect prior to October 1, 2000, subdivision (2) of
571 subsection (a) of section 53-21 of the 2008 supplement to the general
572 statutes, section 53a-70, 53a-70a, 53a-70b, 53a-70c of the 2008
573 supplement to the general statutes, 53a-71 of the 2008 supplement to

574 the general statutes, 53a-72a, as amended by this act, or 53a-72b
 575 committed on or after October 1, 1995.

576 Sec. 34. Section 53a-72a of the general statutes is repealed and the
 577 following is substituted in lieu thereof (*Effective from passage*):

578 (a) A person is guilty of sexual assault in the third degree when
 579 such person (1) compels another person to submit to sexual contact (A)
 580 by the use of force against such other person or a third person, or (B)
 581 by the threat of use of force against such other person or against a third
 582 person, which reasonably causes such other person to fear physical
 583 injury to himself or herself or a third person, or (2) engages in sexual
 584 intercourse with another person whom the actor knows to be related to
 585 him or her [within any of the degrees of kindred specified in section
 586 46b-21] by consanguinity or affinity.

587 (b) For the purposes of this section, a person is related to the actor
 588 by consanguinity or affinity when such person is the actor's mother,
 589 father, grandmother, grandfather, daughter, son, granddaughter,
 590 grandson, sister, brother, aunt, uncle, niece, nephew, stepmother,
 591 stepfather, stepdaughter or stepson.

592 [(b)] (c) Sexual assault in the third degree is a class D felony or, if the
 593 victim of the offense is under sixteen years of age, a class C felony.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2008	53a-29(a)
Sec. 2	July 1, 2008	54-85a
Sec. 3	July 1, 2008	51-277c
Sec. 4	July 1, 2008	New section
Sec. 5	July 1, 2008	54-86l
Sec. 6	July 1, 2008	1-210(b)(3)
Sec. 7	July 1, 2008	10a-55a(a)
Sec. 8	July 1, 2008	17b-749k(b)
Sec. 9	July 1, 2008	19a-87a(a)
Sec. 10	July 1, 2008	19a-87e(a)
Sec. 11	July 1, 2008	19a-112b

Sec. 12	<i>July 1, 2008</i>	19a-112e(a)(5)
Sec. 13	<i>July 1, 2008</i>	19a-343(c)(10)
Sec. 14	<i>July 1, 2008</i>	46b-38h
Sec. 15	<i>July 1, 2008</i>	52-161b(a)
Sec. 16	<i>July 1, 2008</i>	52-577e
Sec. 17	<i>July 1, 2008</i>	52-598(a)
Sec. 18	<i>July 1, 2008</i>	53a-40(a)
Sec. 19	<i>July 1, 2008</i>	53a-40(b)
Sec. 20	<i>July 1, 2008</i>	53a-40c
Sec. 21	<i>July 1, 2008</i>	53a-40e(a)
Sec. 22	<i>July 1, 2008</i>	53a-67(b)
Sec. 23	<i>July 1, 2008</i>	54-86d
Sec. 24	<i>July 1, 2008</i>	54-86e
Sec. 25	<i>July 1, 2008</i>	54-86f
Sec. 26	<i>July 1, 2008</i>	54-86j(a)
Sec. 27	<i>July 1, 2008</i>	54-102b(a)
Sec. 28	<i>July 1, 2008</i>	54-125e(c)
Sec. 29	<i>July 1, 2008</i>	54-143c
Sec. 30	<i>July 1, 2008</i>	54-193b
Sec. 31	<i>July 1, 2008</i>	54-240(14)
Sec. 32	<i>July 1, 2008</i>	54-250(11)
Sec. 33	<i>July 1, 2008</i>	54-260(a)
Sec. 34	<i>from passage</i>	53a-72a

JUD *Joint Favorable Subst.*

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 09 \$	FY 10 \$
Correction, Dept.	GF - Cost / Savings	Potential	Potential
Judicial Department (Probation)	GF - Cost	Potential	Potential

Note: GF=General Fund

Municipal Impact: None

Explanation

Section 1 allows the court to include terms of probation when sentencing people convicted of certain types of 1st degree sexual assault. Over the past three fiscal years, five offenders were sentenced under these statutes. To the extent that future offenders receive terms of probation rather than imprisonment beyond the mandatory minimum of 10 years (which is unchanged by the bill), a state savings would occur under this provision. On average, it costs the state \$3,736 to supervise an offender on probation in the community as compared to \$44,165 to incarcerate the offender.

Sections 18-19 add aggravated sexual assault of a minor to the list of crimes that may subject offenders to enhanced penalties under the persistent offender statutes. This could result in cost to the Department of Correction to extend the term of imprisonment for certain offenders.¹

The bill makes several other changes to laws relating to assault, sexual assault, and abuse of children that have no fiscal impact.

The Out Years

¹ Currently there are approximately 40 offenders in DOC custody classified as persistent offenders. The number of additional offenders who would receive sentence enhancements under the bill is unknown.

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis

sHB 5533

AN ACT CONCERNING THE SEXUAL ASSAULT OF CHILDREN.

SUMMARY:

This bill makes numerous changes to laws relating to assault, sexual assault, and abuse of children. It directs that priority be given to investigating and prosecuting these cases and designates them as privileged with respect to trial assignments. It also creates an exception to the witness sequestration rule, allowing an adult witness to remain in the courtroom and sit near a child while the child is testifying. But it appears to narrow the circumstances under which a young child victim's out-of-court statements can be used as evidence in a criminal prosecution.

The bill also permits courts to include terms of probation when sentencing people convicted of 1st degree sexual assault, a class A felony involving (1) use or threatened use of force against a victim under age 16 or (2) sexual intercourse with a partner under age 13 when the offender was more than two years older. Current law bars probation for all class A felonies.

Finally, the bill adds references to aggravated sexual assault of a minor in numerous laws relating to sexual offenses, offenders, and victims. Legislation enacted in the 2007 session created this crime, which is a class A felony. Among other things, the bill requires lifetime sex offender registration for those convicted of committing this offense. And it makes commission of the crime a predicate offense in the persistent dangerous felony and persistent dangerous sexual offender laws, allowing courts to impose enhanced sentences on repeat offenders.

EFFECTIVE DATE: October 1, 2008

§ 2 — ALLOWING AN ADULT WITNESS TO REMAIN IN COURTROOM DURING CHILD’S TESTIMONY

In cases involving assault, sexual assault, or abuse of a child under age 13, the bill allows an adult who is known to a child witness and with whom the child feels comfortable to sit near the child during the child’s testimony, notwithstanding the fact that the adult is also a witness in the case. Currently, courts bar witnesses from remaining in the courtroom when other witnesses are testifying if counsel requests this.

§ 5 — NARROWING HEARSAY RULE FOR CHILD VICTIM’S STATEMENTS

Although evidence rules generally bar the use of out-of-court statements to prove facts (hearsay), current law permits the use of statements made by children under age 13 that relate to sexual or physical abuse committed by a person who had authority or apparent authority over the child. Under the bill, the alleged abuser must be the child’s parent or guardian or someone exercising comparable authority.

CHANGES RELATED TO NEW CRIME OF AGGRAVATED SEXUAL ASSAULT OF A MINOR

Legislation enacted in the 2007 session establishes the crime of aggravated sexual assault of a minor. A person commits this crime when he or she commits certain crimes against a child under age 13 and:

1. kidnaps, illegally restrains, stalks, disfigures, causes serious injury to, or uses violence against the victim;
2. commits the same offense against more than one victim under age 13;
3. does not know the victim; or
4. has been previously convicted of a violent sexual assault.

The covered crimes are: contact with the intimate parts of a child

under age 13 in a sexual or indecent manner, 1st or 2nd degree sexual assault, 1st degree aggravated sexual assault, 1st or 2nd degree promoting prostitution, and employing a minor in an obscene performance.

The bill adds references to the new crime in the following laws relating to sexual offenses, offenders, and victims thereby making these laws applicable to the new crime:

1. predicate offense designation under the persistent dangerous felony and persistent dangerous sexual offender laws (§§ 18 and 19);
2. extended periods of special parole for specified sex crimes (§ 28);
3. sex offender registration requirements (§§ 32-33)
4. provisions that eliminate statutes of limitation for (a) filing civil lawsuits involving sexual assault claims and collecting money judgments and (b) prosecuting sexual assault cases when DNA evidence is available (§§ 16, 17, & 30);
5. limitations on the use of the affirmative defense of cohabitation in sexual assault prosecutions (§ 22)
6. designation of domestic violence crimes (§ 14);
7. specified offenses that can form the basis for issuance of standing criminal restraining orders in family violence cases (§ 21);
8. court fines, HIV testing, and mandatory counseling for certain sex offenders (§§ 16, 20, & 29);
9. limitations on civil subpoena powers of convicted sex offenders with respect to their victims (§ 15);
10. provisions authorizing nuisance abatement following multiple arrests for sex crimes (§ 13);

11. provisions making sex offenders ineligible for day care licenses and state child care payments (§§ 8-10);
12. entitlement to sexual assault victim services and emergency treatment (§§ 11-12);
13. prohibitions against police departments requesting sexual assault victims to submit to polygraph testing (§ 26);
14. restrictions on introducing evidence concerning a sexual assault victim's sexual history (§ 14);
15. nondisclosure of the names and addresses of sexual assault victims under the Freedom of Information Act (§ 6);
16. restrictions on court disclosure of sexual assault victims' addresses and telephone numbers (§§ 23-24);
17. participation in the secretary of the state's address confidentiality program for family violence victims (§ 34); and
18. a provision specifying the sex offenses that must be reported in annual crime reports by institutions of higher education (§ 7).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 43 Nay 0 (03/24/2008)