



General Assembly

February Session, 2008

Bill No. 5035

LCO No. 662

00662_____

Referred to Committee on Judiciary

Introduced by:

REP. CAFERO, 142nd Dist.

SEN. MCKINNEY, 28th Dist.

***AN ACT CONCERNING REPEAT VIOLENT OFFENDERS, BURGLARY
AND PARDONS AND PAROLE.***

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

1 Section 1. (NEW) (*Effective from passage*) (a) Notwithstanding any
2 other provision of the general statutes, whenever a person (1) stands
3 convicted of murder, manslaughter, arson, kidnapping, robbery in the
4 first or second degree, robbery involving an occupied motor vehicle,
5 assault constituting a felony, sexual assault constituting a felony, home
6 invasion, burglary in the first or second degree, stalking in the first
7 degree or any felony involving the use of a deadly weapon, and (2) has
8 been, prior to the commission of the present crime, two or more times
9 convicted in this state or in any other state or in a federal system for
10 (A) any of the crimes enumerated in subdivision (1) of this subsection
11 or any predecessor statutes in this state, or an attempt to commit any
12 of said crimes, or (B) in any other state, any crimes the essential
13 elements of which are substantially the same as any of the crimes
14 enumerated in subdivision (1) of this subsection, the court shall
15 sentence such person to a term of life imprisonment without the

16 possibility of release.

17 (b) It shall be an affirmative defense to a charge under this section
18 that (1) as to any prior conviction on which the state is relying the
19 defendant was pardoned on the ground of innocence, and (2) without
20 such conviction, the defendant was not two or more times imprisoned
21 or convicted as required by this section.

22 Sec. 2. Section 53a-101 of the general statutes, as amended by section
23 2 of public act 08-1 of the January special session, is repealed and the
24 following is substituted in lieu thereof (*Effective from passage*):

25 (a) A person is guilty of burglary in the first degree when (1) such
26 person enters or remains unlawfully in a building with intent to
27 commit a crime therein and is armed with explosives or a deadly
28 weapon or dangerous instrument, or (2) such person enters or remains
29 unlawfully in a building with intent to commit a crime therein and, in
30 the course of committing the offense, intentionally, knowingly or
31 recklessly inflicts or attempts to inflict bodily injury on anyone, or (3)
32 such person enters or remains unlawfully in a dwelling at night with
33 intent to commit a crime therein, or (4) such person enters or remains
34 unlawfully in a dwelling, while a person other than the participant in
35 the crime is actually present in such dwelling, with intent to commit a
36 crime therein, or (5) such person enters or remains unlawfully in a
37 dwelling with intent to commit a crime therein and is aided by one or
38 more persons actually present.

39 (b) An act shall be deemed "in the course of committing" the offense
40 if it occurs in an attempt to commit the offense or flight after the
41 attempt or commission.

42 (c) Burglary in the first degree is a class B felony, provided any
43 person found guilty under subdivision (1) (2), (4) or (5) of subsection
44 (a) of this section shall be sentenced to a term of imprisonment of
45 which five years of the sentence imposed may not be suspended or
46 reduced by the court.

47 Sec. 3. Section 53a-102 of the general statutes, as amended by section
48 3 of public act 08-1 of the January special session, is repealed and the
49 following is substituted in lieu thereof (*Effective from passage*):

50 (a) A person is guilty of burglary in the second degree when such
51 person (1) enters or remains unlawfully in a building with intent to
52 commit a crime therein and, in the course of committing the offense,
53 threatens the use of or displays or represents by such person's words
54 or conduct that such person possesses a firearm, or (2) enters or
55 remains unlawfully in a dwelling [while a person other than a
56 participant in the crime is actually present in such dwelling,] with
57 intent to commit a crime therein.

58 (b) An act shall be deemed "in the course of committing" the offense
59 if it occurs in an attempt to commit the offense or flight after the
60 attempt or commission.

61 [(b)] (c) Burglary in the second degree is a class C felony for a first
62 offense and a class B felony for any subsequent offense, provided any
63 person found guilty under this section shall be sentenced to a term of
64 imprisonment of which three years of the sentence imposed may not
65 be suspended or reduced by the court.

66 Sec. 4. Subsection (j) of section 54-124a of the general statutes, as
67 amended by section 12 of public act 08-1 of the January special session,
68 is repealed and the following is substituted in lieu thereof (*Effective*
69 *from passage*):

70 (j) The chairperson, in consultation with the executive director, shall
71 adopt regulations, in accordance with chapter 54, concerning:

72 (1) Parole revocation and rescission hearings that include
73 implementing due process requirements;

74 (2) An administrative pardons process that allows an applicant
75 convicted of a crime to be granted a pardon with respect to such crime
76 without a hearing, unless a victim of such crime requests such a

77 hearing, if such applicant was:

78 (A) Convicted of a misdemeanor and (i) such conduct no longer
79 constitutes a crime, (ii) such applicant was under twenty-one years of
80 age at the time of conviction and has not been convicted of a crime
81 during the five years preceding the date on which the pardon is
82 granted, or (iii) such conviction occurred prior to the effective date of
83 the establishment of a program under sections 17a-692 to 17a-701,
84 inclusive, section 46b-38c of the 2008 supplement to the general
85 statutes, 53a-39a, 53a-39c, 54-56e of the 2008 supplement to the general
86 statutes, 54-56g of the 2008 supplement to the general statutes, 54-56i
87 of the 2008 supplement to the general statutes or 54-56j for which the
88 applicant would have been eligible had such program existed at the
89 time of conviction, provided the chairperson determines the applicant
90 would likely have been granted entry into such program; or

91 (B) Convicted of a violation of section 21a-277, 21a-278 of the 2008
92 supplement to the general statutes or 21a-279 and such applicant has
93 not been convicted of a crime during the five years preceding the date
94 on which the pardon is granted, provided such date is at least ten
95 years after the date of such conviction or such applicant's release from
96 incarceration, whichever is later; [and]

97 (3) Requiring board members assigned to pardons hearings to issue
98 written statements containing the reasons for rejecting any application
99 for a pardon; and

100 (4) Providing notification to the arresting law enforcement authority
101 prior to a parole hearing or the consideration of a recommendation
102 that parole be granted.

103 Sec. 5. Section 54-130a of the 2008 supplement to the general statutes
104 is repealed and the following is substituted in lieu thereof (*Effective*
105 *from passage*):

106 (a) Jurisdiction over the granting of, and the authority to grant,

107 commutations of punishment or releases, conditioned or absolute, in
108 the case of any person convicted of any offense against the state and
109 commutations from the penalty of death shall be vested in the Board of
110 Pardons and Paroles.

111 (b) The board shall have authority to grant pardons, conditioned,
112 provisional or absolute, for any offense against the state at any time
113 after the imposition and before or after the service of any sentence.

114 (c) The board may accept an application for a pardon three years
115 after an applicant's conviction of a misdemeanor or violation, [and]
116 five years after an applicant's conviction of a felony other than a class
117 A or B felony, or ten years after an applicant's conviction of a class A or
118 B felony, except that the board, upon a finding of extraordinary
119 circumstances, may accept an application for a pardon prior to such
120 dates.

121 (d) The board may grant an absolute pardon only if the board finds
122 that (1) for an applicant convicted of: (A) A misdemeanor or violation,
123 such applicant has not been convicted of another crime in the three
124 years preceding the date of application, (B) a felony other than a class
125 A or B felony, such applicant has not been convicted of another crime
126 in the five years preceding the date of application, or (C) a class A or B
127 felony, such applicant has not been convicted of another crime in the
128 ten years preceding the date of application; (2) the applicant has
129 presented evidence that the applicant has made a significant effort to
130 successfully reintegrate into the community; (3) the granting of such
131 pardon will enhance the applicant's successful reintegration into
132 community life; and (4) the granting of such pardon is consistent with
133 public safety. The board shall record such findings on the record prior
134 to granting a pardon.

135 [(d)] (e) Whenever the board grants an absolute pardon to any
136 person, the board shall cause notification of such pardon to be made in
137 writing to the clerk of the court in which such person was convicted, or
138 the Office of the Chief Court Administrator if such person was

139 convicted in the Court of Common Pleas, the Circuit Court, a
140 municipal court, or a trial justice court.

141 [(e)] (f) Whenever the board grants a provisional pardon to any
142 person, the board shall cause notification of such pardon to be made in
143 writing to the clerk of the court in which such person was convicted.
144 The granting of a provisional pardon does not entitle such person to
145 erasure of the record of the conviction of the offense or relieve such
146 person from disclosing the existence of such conviction as may be
147 required.

148 [(f)] (g) In the case of any person convicted of a violation for which a
149 sentence to a term of imprisonment may be imposed, the board shall
150 have authority to grant a pardon, conditioned, provisional or absolute,
151 in the same manner as in the case of any person convicted of an offense
152 against the state.

153 Sec. 6. Section 17 of public act 08-1 of the January special session is
154 repealed and the following is substituted in lieu thereof (*Effective from*
155 *passage*):

156 The Department of Correction shall contract for an additional thirty-
157 five reentry beds for immediate occupancy, shall contract for an
158 additional [fifty] forty-five reentry beds for occupancy not later than
159 July 1, 2008, and shall contract for an additional [fifty] twenty-eight
160 reentry beds for occupancy not later than November 15, 2008.

161 Sec. 7. Section 18 of public act 08-1 of the January special session is
162 repealed and the following is substituted in lieu thereof (*Effective from*
163 *passage*):

164 The Court Support Services Division of the Judicial Branch shall
165 contract for an additional thirty-five diversionary beds for immediate
166 occupancy, shall contract for an additional [fifty] forty-five
167 diversionary beds for occupancy not later than July 1, 2008, and shall
168 contract for an additional [fifty] twenty-eight diversionary beds for

169 occupancy not later than November 15, 2008.

170 Sec. 8. (*Effective from passage*) The Department of Mental Health and
 171 Addiction Services shall develop ten additional medium security step-
 172 down beds not later than July 1, 2008, and shall contract for an
 173 additional forty-five diversionary beds for occupancy not later than
 174 October 1, 2008.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	53a-101
Sec. 3	<i>from passage</i>	53a-102
Sec. 4	<i>from passage</i>	54-124a(j)
Sec. 5	<i>from passage</i>	54-130a
Sec. 6	<i>from passage</i>	PA 08-1 of the January Sp. Sess., Sec. 17
Sec. 7	<i>from passage</i>	PA 08-1 of the January Sp. Sess., Sec. 18
Sec. 8	<i>from passage</i>	New section

Statement of Purpose:

To implement the Governor's budget recommendations.

[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.]