



House Bill No. 6578

Public Act No. 09-107

AN ACT CONCERNING THE PENALTY FOR A CAPITAL FELONY.

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

Section 1. Section 53a-54b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage and applicable to crimes committed on or after said date*):

A person is guilty of [a capital felony] murder with special circumstances who is convicted of any of the following: (1) Murder of a member of the Division of State Police within the Department of Public Safety or of any local police department, a chief inspector or inspector in the Division of Criminal Justice, a state marshal who is exercising authority granted under any provision of the general statutes, a judicial marshal in performance of the duties of a judicial marshal, a constable who performs criminal law enforcement duties, a special policeman appointed under section 29-18, a conservation officer or special conservation officer appointed by the Commissioner of Environmental Protection under the provisions of section 26-5, an employee of the Department of Correction or a person providing services on behalf of said department when such employee or person is acting within the scope of such employee's or person's employment or duties in a correctional institution or facility and the actor is confined in such institution or facility, or any firefighter, while such

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victim was acting within the scope of such victim's duties; (2) murder committed by a defendant who is hired to commit the same for pecuniary gain or murder committed by one who is hired by the defendant to commit the same for pecuniary gain; (3) murder committed by one who has previously been convicted of intentional murder or of murder committed in the course of commission of a felony; (4) murder committed by one who was, at the time of commission of the murder, under sentence of life imprisonment; (5) murder by a kidnapper of a kidnapped person during the course of the kidnapping or before such person is able to return or be returned to safety; (6) murder committed in the course of the commission of sexual assault in the first degree; (7) murder of two or more persons at the same time or in the course of a single transaction; or (8) murder of a person under sixteen years of age.

Sec. 2. Section 53a-35a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

For any felony committed on or after July 1, 1981, the sentence of imprisonment shall be a definite sentence and the term shall be fixed by the court as follows: (1) (A) For a capital felony committed prior to the effective date of this section, a term of life imprisonment without the possibility of release unless a sentence of death is imposed in accordance with section 53a-46a, as amended by this act, or (B) for the class A felony of murder with special circumstances committed on or after the effective date of this section, a term of life imprisonment without the possibility of release; (2) for the class A felony of murder, a term not less than twenty-five years nor more than life; (3) for the class A felony of aggravated sexual assault of a minor under section 53a-70c, a term not less than twenty-five years or more than fifty years; (4) for a class A felony other than an offense specified in subdivision (2) or (3) of this section, a term not less than ten years nor more than twenty-five years; (5) for the class B felony of manslaughter in the first degree with

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a firearm under section 53a-55a, a term not less than five years nor more than forty years; (6) for a class B felony other than manslaughter in the first degree with a firearm under section 53a-55a, a term not less than one year nor more than twenty years, except that for a conviction under section 53a-59(a)(1), 53a-59a, 53a-70a, 53a-94a, 53a-101(a)(1) or 53a-134(a)(2), the term shall be not less than five years nor more than twenty years; (7) for a class C felony, a term not less than one year nor more than ten years, except that for a conviction under section 53a-56a, the term shall be not less than three years nor more than ten years; (8) for a class D felony, a term not less than one year nor more than five years, except that for a conviction under section 53a-60b or 53a-217, the term shall be not less than two years nor more than five years, for a conviction under section 53a-60c, the term shall be not less than three years nor more than five years, and for a conviction under section 53a-216, the term shall be five years; (9) for an unclassified felony, a term in accordance with the sentence specified in the section of the general statutes that defines the crime.

Sec. 3. Section 53a-35b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

A sentence of [imprisonment for life shall mean] life imprisonment means a definite sentence of sixty years, unless the sentence is life imprisonment without the possibility of release, imposed pursuant to [subsection (g) of section 53a-46a] subparagraph (A) or (B) of subdivision (1) of section 53a-35a, as amended by this act, in which case the sentence shall be imprisonment for the remainder of the defendant's natural life.

Sec. 4. Subsection (a) of section 53a-45 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Murder is punishable as a class A felony in accordance with

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subdivision (2) of section 53a-35a unless it is a capital felony committed prior to the effective date of this section, punishable in accordance with subparagraph (A) of subdivision (1) of section 53a-35a, as amended by this act, murder with special circumstances committed on or after the effective date of this section, punishable as a class A felony in accordance with subparagraph (B) of subdivision (1) of section 53a-35a, as amended by this act, or murder under section 53a-54d.

Sec. 5. Subsection (a) of section 53a-46a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) A person shall be subjected to the penalty of death for a capital felony committed prior to the effective date of this section only if a hearing is held in accordance with the provisions of this section.

Sec. 6. Subsection (a) of section 53a-46b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Any sentence of death imposed in accordance with the provisions of section 53a-46a, as amended by this act, shall be reviewed by the Supreme Court pursuant to its rules. In addition to its authority to correct errors at trial, the Supreme Court shall either affirm the sentence of death or vacate said sentence and remand for imposition of a sentence in accordance with subparagraph (A) of subdivision (1) of section 53a-35a, as amended by this act.

Sec. 7. Subsection (c) of section 53a-54a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(c) Murder is punishable as a class A felony in accordance with subdivision (2) of section 53a-35a unless it is a capital felony

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committed prior to the effective date of this section, punishable in accordance with subparagraph (A) of subdivision (1) of section 53a-35a, as amended by this act, murder with special circumstances committed on or after the effective date of this section, punishable as a class A felony in accordance with subparagraph (B) of subdivision (1) of section 53a-35a, as amended by this act, or murder under section 53a-54d.

Sec. 8. Subsection (m) of section 10-145b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(m) (1) The State Board of Education may revoke any certificate, authorization or permit issued pursuant to sections 10-144o to 10-149, inclusive, for any of the following reasons: (A) The holder of the certificate, authorization or permit obtained such certificate, authorization or permit through fraud or misrepresentation of a material fact; (B) the holder has persistently neglected to perform the duties for which the certificate, authorization or permit was granted; (C) the holder is professionally unfit to perform the duties for which the certificate, authorization or permit was granted; (D) the holder is convicted in a court of law of a crime involving moral turpitude or of any other crime of such nature that in the opinion of the board continued holding of a certificate, authorization or permit by the person would impair the standing of certificates, authorizations or permits issued by the board; or (E) other due and sufficient cause. The State Board of Education shall revoke any certificate, authorization or permit issued pursuant to said sections if the holder is found to have intentionally disclosed specific questions or answers to students or otherwise improperly breached the security of any administration of a state-wide examination pursuant to section 10-14n. In any revocation proceeding pursuant to this section, the State Board of Education shall have the burden of establishing the reason for such revocation by a

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preponderance of the evidence. Revocation shall be in accordance with procedures established by the State Board of Education pursuant to chapter 54.

(2) When the Commissioner of Education is notified, pursuant to section 10-149a or 17a-101i that a person holding a certificate, authorization or permit issued by the State Board of Education under the provisions of sections 10-144o to 10-149, inclusive, has been convicted of (A) a capital felony, pursuant to section 53a-54b in effect prior to the effective date of this section, (B) arson murder, pursuant to section 53a-54d, (C) a class A felony, (D) a class B felony, except a violation of section 53a-122, 53a-252 or 53a-291, (E) a crime involving an act of child abuse or neglect as described in section 46b-120, or (F) a violation of section 53-21, 53-37a, 53a-60b, 53a-60c, 53a-71, 53a-72a, 53a-72b, 53a-73a, 53a-88, 53a-99, 53a-103a, 53a-181c, 53a-191, 53a-196, 53a-196c, 53a-216, 53a-217b or 21a-278 or subsection (a) of section 21a-277, any certificate, permit or authorization issued by the State Board of Education and held by such person shall be deemed revoked and the commissioner shall notify such person of such revocation, provided such person may request reconsideration pursuant to regulations adopted by the State Board of Education, in accordance with the provisions of chapter 54. As part of such reconsideration process, the board shall make the initial determination as to whether to uphold or overturn the revocation. The commissioner shall make the final determination as to whether to uphold or overturn the revocation.

(3) The State Board of Education may deny an application for a certificate, authorization or permit for any of the following reasons: (A) The applicant seeks to obtain a certificate, authorization or permit through fraud or misrepresentation of a material fact; (B) the applicant has been convicted in a court of law of a crime involving moral turpitude or of any other crime of such nature that in the opinion of the board issuance of a certificate, authorization or permit would

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impair the standing of certificates, authorizations or permits issued by the board; or (C) other due and sufficient cause. Any applicant denied a certificate, authorization or permit shall be notified in writing of the reasons for denial. Any applicant denied a certificate, authorization or permit may request a review of such denial by the State Board of Education.

Sec. 9. Section 10-145i of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

Notwithstanding the provisions of sections 10-144o to 10-146b, inclusive, and 10-149, the State Board of Education shall not issue or reissue any certificate, authorization or permit pursuant to said sections if (1) the applicant for such certificate, authorization or permit has been convicted of any of the following: (A) A capital felony, as defined in section 53a-54b in effect prior to the effective date of this section; (B) arson murder, as defined in section 53a-54d; (C) any class A felony; (D) any class B felony except a violation of section 53a-122, 53a-252 or 53a-291; (E) a crime involving an act of child abuse or neglect as described in section 46b-120; or (F) a violation of section 53-21, 53-37a, 53a-60b, 53a-60c, 53a-71, 53a-72a, 53a-72b, 53a-73a, 53a-88, 53a-99, 53a-103a, 53a-181c, 53a-191, 53a-196, 53a-196c, 53a-216, 53a-217b or 21a-278 or a violation of subsection (a) of section 21a-277, and (2) the applicant completed serving the sentence for such conviction within the five years immediately preceding the date of the application.

Sec. 10. Subsection (a) of section 46b-127 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The court shall automatically transfer from the docket for juvenile matters to the regular criminal docket of the Superior Court the case of any child charged with the commission of a capital felony

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under section 53a-54b in effect prior to the effective date of this section, a class A or B felony or a violation of section 53a-54d, provided such offense was committed after such child attained the age of fourteen years and counsel has been appointed for such child if such child is indigent. Such counsel may appear with the child but shall not be permitted to make any argument or file any motion in opposition to the transfer. The child shall be arraigned in the regular criminal docket of the Superior Court at the next court date following such transfer, provided any proceedings held prior to the finalization of such transfer shall be private and shall be conducted in such parts of the courthouse or the building wherein court is located as shall be separate and apart from the other parts of the court which are then being held for proceedings pertaining to adults charged with crimes. The file of any case so transferred shall remain sealed until the end of the tenth working day following such arraignment unless the state's attorney has filed a motion pursuant to this subsection, in which case such file shall remain sealed until the court makes a decision on the motion. A state's attorney may, not later than ten working days after such arraignment, file a motion to transfer the case of any child charged with the commission of a class B felony or a violation of subdivision (2) of subsection (a) of section 53a-70 to the docket for juvenile matters for proceedings in accordance with the provisions of this chapter. The court sitting for the regular criminal docket shall, after hearing and not later than ten working days after the filing of such motion, decide such motion.

Sec. 11. Subsection (a) of section 46b-133 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Nothing in this part shall be construed as preventing the arrest of a child, with or without a warrant, as may be provided by law, or as preventing the issuance of warrants by judges in the manner provided

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by section 54-2a, as amended by this act, except that no child shall be taken into custody on such process except on apprehension in the act, or on speedy information, or in other cases when the use of such process appears imperative. Whenever a child is arrested and charged with a crime, such child may be required to submit to the taking of his photograph, physical description and fingerprints. Notwithstanding the provisions of section 46b-124, the name, photograph and custody status of any child arrested for the commission of a capital felony under section 53a-54b in effect prior to the effective date of this section or class A felony may be disclosed to the public.

Sec. 12. Subsection (c) of section 51-36 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(c) (1) In any case in which a person has been convicted of a felony, other than a capital felony under section 53a-54b in effect prior to the effective date of this section or murder with special circumstances under section 53a-54b, as amended by this act, in effect on and after the effective date of this section, the official records of evidence or judicial proceedings in the court may be destroyed upon the expiration of twenty years from the date of imposition of the sentence in such case or upon the expiration of the sentence imposed upon such person, whichever is later.

(2) In any case in which a person has been convicted after trial of a capital felony under section 53a-54b in effect prior to the effective date of this section or murder with special circumstances under section 53a-54b, as amended by this act, in effect on and after the effective date of this section, the official records of evidence or judicial proceedings in the court may be destroyed upon the expiration of seventy-five years from the date of imposition of the sentence in such case.

(3) In any case in which a person has been found not guilty, or in

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any case that has been dismissed or was not prosecuted, the court may order the destruction or disposal of all exhibits entered in such case upon the expiration of ninety days from the date of final disposition of such case, unless a prior disposition of such exhibits has been ordered pursuant to section 54-36a. In any case in which a nolle has been entered, the court may order the destruction or disposal of all exhibits entered in such case upon the expiration of thirteen months from the date of final disposition of such case. Not less than thirty days prior to the scheduled destruction or disposal of exhibits under this subdivision, the clerk of the court shall send notice to all parties and any party may request a hearing on the issue of such destruction or disposal before the court in which the matter is pending.

(4) In any case in which a person has been convicted of a misdemeanor or has been adjudicated a youthful offender, the court may order the destruction or disposal of all exhibits entered in such case upon the expiration of ten years from the date of imposition of the sentence in such case or upon the expiration of the sentence imposed on such person, whichever is later, unless a prior disposition of such exhibits has been ordered pursuant to section 54-36a. Not less than thirty days prior to the scheduled destruction or disposal of exhibits under this subdivision, the clerk of the court shall send notice to all parties and any party may request a hearing on the issue of such destruction or disposal before the court in which the matter is pending.

(5) In any case in which a person is charged with multiple offenses, no destruction or disposal of exhibits may be ordered under this subsection until the longest applicable retention period under this subsection has expired. The provisions of this subdivision and subdivisions (3), (4) and (6) of this subsection shall apply to any criminal or motor vehicle case disposed of before, on or after October 1, 2006.

(6) The retention period for the official records of evidence and

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exhibits in any habeas corpus proceeding, petition for a new trial or other proceeding arising out of a criminal case in which a person has been convicted shall be the same as the applicable retention period under this subsection for the criminal case from which such proceeding or petition arose.

(7) For the purposes of this subsection, "sentence" includes any period of incarceration, parole, special parole or probation.

Sec. 13. Subsection (b) of section 51-199 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) The following matters shall be taken directly to the Supreme Court: (1) Any matter brought pursuant to the original jurisdiction of the Supreme Court under section 2 of article sixteen of the amendments to the Constitution; (2) an appeal in any matter where the Superior Court declares invalid a state statute or a provision of the state Constitution; (3) an appeal in any criminal action involving a conviction for a capital felony under section 53a-54b in effect prior to the effective date of this section, class A felony [,] or any other felony, including any persistent offender status, for which the maximum sentence which may be imposed exceeds twenty years; (4) review of a sentence of death pursuant to section 53a-46b, as amended by this act; (5) any election or primary dispute brought to the Supreme Court pursuant to section 9-323 or 9-325; (6) an appeal of any reprimand or censure of a probate judge pursuant to section 45a-65; (7) any matter regarding judicial removal or suspension pursuant to section 51-51j; (8) an appeal of any decision of the Judicial Review Council pursuant to section 51-51r; (9) any matter brought to the Supreme Court pursuant to section 52-265a; (10) writs of error; and (11) any other matter as provided by law.

Sec. 14. Section 51-246 of the general statutes is repealed and the

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following is substituted in lieu thereof (*Effective from passage*):

In the trial of [any capital case or any case involving imprisonment for life] any case involving a crime punishable by death, life imprisonment without the possibility of release or life imprisonment, the court may, in its discretion, require the jury to remain together in the charge of judicial marshals during the trial and until the jury is discharged by the court from further consideration of the case.

Sec. 15. Section 51-286c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

The state's attorney for any judicial district may employ one or more detectives to investigate for the purpose of discovering the perpetrators of any crime committed within this state, whenever the penalty for such crime is capital punishment, [or imprisonment in the Connecticut Correctional Institution, Somers] life imprisonment without the possibility of release or life imprisonment. The expenses incurred in the employment of such detectives shall be paid from the State Treasury on an order from the state's attorney employing them.

Sec. 16. Subsection (a) of section 52-434 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) (1) Each judge of the Supreme Court, each judge of the Appellate Court, each judge of the Superior Court and each judge of the Court of Common Pleas who ceases or has ceased to hold office because of retirement other than under the provisions of section 51-49 and who is an elector and a resident of this state shall be a state referee for the remainder of such judge's term of office as a judge and shall be eligible for appointment as a state referee during the remainder of such judge's life in the manner prescribed by law for the appointment of a judge of the court of which such judge is a member. The Superior Court may

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refer any civil, nonjury case or with the written consent of the parties or their attorneys, any civil jury case pending before the court in which the issues have been closed to a judge trial referee who shall have and exercise the powers of the Superior Court in respect to trial, judgment and appeal in the case, and any proceeding resulting from a demand for a trial de novo pursuant to subsection (e) of section 52-549z may be referred without the consent of the parties to a judge trial referee who has been specifically designated to hear such proceedings pursuant to subsection (b) of this section. The Superior Court may, with the consent of the parties or their attorneys, refer any criminal case to a judge trial referee who shall have and exercise the powers of the Superior Court in respect to trial, judgment, sentencing and appeal in the case, except that the Superior Court may, without the consent of the parties or their attorneys, (A) refer any criminal case, other than a criminal jury trial, to a judge trial referee assigned to a geographical area criminal court session, and (B) refer any criminal case, other than a class A or B felony or capital felony under section 53a-54b in effect prior to the effective date of this section, to a judge trial referee to preside over the jury selection process and any voir dire examination conducted in such case, unless good cause is shown not to refer.

(2) Each judge of the Circuit Court who has ceased to hold office because of retirement other than under the provisions of section 51-49 and who is an elector and a resident of this state shall be a state referee for the remainder of such judge's term of office as a judge and shall be eligible for appointment as a state referee during the remainder of such judge's life in the manner prescribed by law for the appointment of a judge of the court of which such judge is a member, to whom the Superior Court may, with the written consent of the parties or their attorneys, refer any case pending in court in which the issues have been closed and which the judges of the Superior Court may establish by rule to be the kind of case which may be heard by such referees who have been appointed judge trial referees pursuant to subsection

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(b) of this section. The judge trial referee shall hear any such case so referred and report the facts to the court by which the case was referred.

(3) Each judge of the Juvenile Court who ceases or has ceased to hold office because of retirement other than under the provisions of section 51-49 and who is an elector and a resident of this state shall be a state referee for the remainder of such judge's term of office as a judge and shall be eligible for appointment as a state referee during the remainder of such judge's life in the manner prescribed by law for the appointment of a judge of the court of which such judge is a member, to whom a judge before whom any juvenile matter is pending may, with the written consent of the child concerned, either of such child's parents, or such child's guardian or attorney, refer any juvenile matter pending, provided such referee has been appointed a judge trial referee specifically designated to hear juvenile cases pursuant to subsection (b) of this section. The judge trial referee shall hear any matter so referred and report the facts to the court for the district from which the matter was referred.

(4) In addition to the judge trial referees who are appointed pursuant to subdivision (1), (2) or (3) of this subsection, the Chief Justice may appoint, from qualified members of the bar of the state, who are electors and residents of this state, as many state referees as the Chief Justice may from time to time deem advisable or necessary. No appointment of a member of the bar may be for a term of more than three years. Notwithstanding the provisions of subsection (f) of this section, state referees appointed by the Chief Justice from members of the bar shall receive such reasonable compensation and expenses as may be determined by the Chief Justice. The Superior Court may appoint a state referee pursuant to this subdivision to take such evidence as it directs in any civil, nonjury case including, but not limited to, appeals under section 8-8. Any such state referee shall

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report on such evidence to the court with any findings of fact. The report shall constitute a part of the proceeding upon which the determination of the court shall be made.

Sec. 17. Subsection (b) of section 53a-25 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) Felonies are classified for the purposes of sentence as follows: (1) Class A, (2) class B, (3) class C, (4) class D, (5) unclassified, and (6) capital felonies under section 53a-54b in effect prior to the effective date of this section.

Sec. 18. Subsection (a) of section 53a-30 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) When imposing sentence of probation or conditional discharge, the court may, as a condition of the sentence, order that the defendant: (1) Work faithfully at a suitable employment or faithfully pursue a course of study or of vocational training that will equip the defendant for suitable employment; (2) undergo medical or psychiatric treatment and remain in a specified institution, when required for that purpose; (3) support the defendant's dependents and meet other family obligations; (4) make restitution of the fruits of the defendant's offense or make restitution, in an amount the defendant can afford to pay or provide in a suitable manner, for the loss or damage caused thereby and the court may fix the amount thereof and the manner of performance; (5) if a minor, (A) reside with the minor's parents or in a suitable foster home, (B) attend school, and (C) contribute to the minor's own support in any home or foster home; (6) post a bond or other security for the performance of any or all conditions imposed; (7) refrain from violating any criminal law of the United States, this state or any other state; (8) if convicted of a misdemeanor or a felony, other

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than a capital felony under section 53a-54b in effect prior to the effective date of this section, a class A felony or a violation of section 21a-278, 21a-278a, 53a-55, 53a-56, 53a-56b, 53a-57, 53a-58 or 53a-70b or any offense for which there is a mandatory minimum sentence which may not be suspended or reduced by the court, and any sentence of imprisonment is suspended, participate in an alternate incarceration program; (9) reside in a residential community center or halfway house approved by the Commissioner of Correction, and contribute to the cost incident to such residence; (10) participate in a program of community service labor in accordance with section 53a-39c; (11) participate in a program of community service in accordance with section 51-181c; (12) if convicted of a violation of subdivision (2) of subsection (a) of section 53-21, section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-72b, undergo specialized sexual offender treatment; (13) if convicted of a criminal offense against a victim who is a minor, a nonviolent sexual offense or a sexually violent offense, as defined in section 54-250, or of a felony that the court finds was committed for a sexual purpose, as provided in section 54-254, register such person's identifying factors, as defined in section 54-250, with the Commissioner of Public Safety when required pursuant to section 54-251, 54-252 or 54-253, as the case may be; (14) be subject to electronic monitoring, which may include the use of a global positioning system; (15) if convicted of a violation of section 46a-58, 53-37a, 53a-181j, 53a-181k or 53a-181l, participate in an anti-bias crime education program; (16) if convicted of a violation of section 53-247, undergo psychiatric or psychological counseling or participate in an animal cruelty prevention and education program provided such a program exists and is available to the defendant; or (17) satisfy any other conditions reasonably related to the defendant's rehabilitation. The court shall cause a copy of any such order to be delivered to the defendant and to the probation officer, if any.

Sec. 19. Subsection (b) of section 53a-35 of the general statutes is

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repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) The maximum term of an indeterminate sentence shall be fixed by the court and specified in the sentence as follows: (1) For a class A felony, life imprisonment; (2) for a class B felony, a term not to exceed twenty years; (3) for a class C felony, a term not to exceed ten years; (4) for a class D felony, a term not to exceed five years; (5) for an unclassified felony, a term in accordance with the sentence specified in the section of the general statutes that defines the crime; and (6) for a capital felony under section 53a-54b in effect prior to the effective date of this section, life imprisonment unless a sentence of death is imposed in accordance with section 53a-46a, as amended by this act.

Sec. 20. Subsection (a) of section 53a-39a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) In all cases where a defendant has been convicted of a misdemeanor or a felony, other than a capital felony under section 53a-54b in effect prior to the effective date of this section, a class A felony or a violation of section 21a-278, 21a-278a, 53a-55, 53a-56, 53a-56b, 53a-57, 53a-58 or 53a-70b or any other offense for which there is a mandatory minimum sentence which may not be suspended or reduced by the court, after trial or by a plea of guilty without trial, and a term of imprisonment is part of a stated plea agreement or the statutory penalty provides for a term of imprisonment, the court may, in its discretion, order an assessment for placement in an alternate incarceration program under contract with the Judicial Department. If the Court Support Services Division recommends placement in an alternate incarceration program, it shall also submit to the court a proposed alternate incarceration plan. Upon completion of the assessment, the court shall determine whether such defendant shall be ordered to participate in such program as an alternative to

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incarceration. If the court determines that the defendant shall participate in such program, the court shall suspend any sentence of imprisonment and shall make participation in the alternate incarceration program a condition of probation as provided in section 53a-30, as amended by this act.

Sec. 21. Subsection (a) of section 53a-40d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) A persistent offender of crimes involving assault, stalking, trespass, threatening, harassment, criminal violation of a protective order or criminal violation of a restraining order is a person who (1) stands convicted of assault under section 53a-61, stalking under section 53a-181d, threatening under section 53a-62, harassment under section 53a-183, criminal violation of a protective order under section 53a-223, criminal violation of a restraining order under section 53a-223b or criminal trespass under section 53a-107 or 53a-108, and (2) has, within the five years preceding the commission of the present crime, been convicted of a capital felony under section 53a-54b in effect prior to the effective date of this section, a class A felony, a class B felony, except a conviction under section 53a-86 or 53a-122, a class C felony, except a conviction under section 53a-87, 53a-152 or 53a-153, or a class D felony under sections 53a-60 to 53a-60c, inclusive, 53a-72a, 53a-72b, 53a-95, 53a-103, 53a-103a, 53a-114, 53a-136 or 53a-216, assault under section 53a-61, stalking under section 53a-181d, threatening under section 53a-62, harassment under section 53a-183, criminal violation of a protective order under section 53a-223, criminal violation of a restraining order under section 53a-223b, or criminal trespass under section 53a-107 or 53a-108 or has been released from incarceration with respect to such conviction, whichever is later.

Sec. 22. Section 53a-46d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

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A victim impact statement prepared with the assistance of a victim advocate to be placed in court files in accordance with subdivision (2) of subsection (a) of section 54-220 may be read in court prior to imposition of sentence upon a defendant found guilty of a crime punishable by death or life imprisonment without the possibility of release.

Sec. 23. Subsection (a) of section 53a-182b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) A person is guilty of harassment in the first degree when, with the intent to harass, annoy, alarm or terrorize another person, he threatens to kill or physically injure that person or any other person, and communicates such threat by telephone, or by telegraph, mail, computer network, as defined in section 53a-250, or any other form of written communication, in a manner likely to cause annoyance or alarm and has been convicted of a capital felony under section 53a-54b in effect prior to the effective date of this section, a class A felony, a class B felony, except a conviction under section 53a-86 or 53a-122, a class C felony, except a conviction under section 53a-87, 53a-152 or 53a-153, or a class D felony under sections 53a-60 to 53a-60c, inclusive, 53a-72a, 53a-72b, 53a-95, 53a-103, 53a-103a, 53a-114, 53a-136 or 53a-216. For the purposes of this section, "convicted" means having a judgment of conviction entered by a court of competent jurisdiction.

Sec. 24. Subsection (a) of section 53a-217d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) A person is guilty of criminal possession of body armor when he possesses body armor and has been (1) convicted of a capital felony under section 53a-54b in effect prior to the effective date of this section, a class A felony, except a conviction under section 53a-196a, a class B

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felony, except a conviction under section 53a-86, 53a-122 or 53a-196b, a class C felony, except a conviction under section 53a-87, 53a-152 or 53a-153 or a class D felony under sections 53a-60 to 53a-60c, inclusive, 53a-72a, 53a-72b, 53a-95, 53a-103, 53a-103a, 53a-114, 53a-136 or 53a-216, or (2) convicted as delinquent for the commission of a serious juvenile offense, as defined in section 46b-120.

Sec. 25. Subsection (b) of section 54-2a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) The court, judge or judge trial referee issuing a bench warrant for the arrest of the person or persons complained against shall, in cases punishable by death, life imprisonment without the possibility of release or life imprisonment, set the conditions of release or indicate that the person or persons named in the warrant shall not be entitled to bail and may, in all other cases, set the conditions of release. The conditions of release, if included in the warrant, shall fix the first of the following conditions which the court, judge or judge trial referee finds necessary to assure such person's appearance in court: (1) Written promise to appear; (2) execution of a bond without surety in no greater amount than necessary; or (3) execution of a bond with surety in no greater amount than necessary.

Sec. 26. Subsection (a) of section 54-46a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) No person charged by the state, who has not been indicted by a grand jury prior to May 26, 1983, shall be put to plea or held to trial for any crime punishable by death, life imprisonment without the possibility of release or life imprisonment unless the court at a preliminary hearing determines there is probable cause to believe that the offense charged has been committed and that the accused person

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has committed it. The accused person may knowingly and voluntarily waive such preliminary hearing to determine probable cause.

Sec. 27. Section 54-53 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

Each person detained in a community correctional center pursuant to the issuance of a bench warrant of arrest or for arraignment, sentencing or trial for an offense not punishable by death or life imprisonment without the possibility of release shall be entitled to bail and shall be released from such institution upon entering into a recognizance, with sufficient surety, or upon posting cash bail as provided in section 54-66, for the detained person's appearance before the court having cognizance of the offense, to be taken by any person designated by the Commissioner of Correction at the institution where the person is detained. The person so designated shall deliver the recognizance or cash bail to the clerk of the appropriate court before the opening of the court on the first court day thereafter. When cash bail in excess of ten thousand dollars is received for a detained person accused of a felony, where the underlying facts and circumstances of the felony involve the use, attempted use or threatened use of physical force against another person, the person so designated shall prepare a report that contains (1) the name, address and taxpayer identification number of the detained person, (2) the name, address and taxpayer identification number of each person offering the cash bail, other than a person licensed as a professional bondsman under chapter 533 or a surety bail bond agent under chapter 700f, (3) the amount of cash received, and (4) the date the cash was received. Not later than fifteen days after receipt of such cash bail, the person so designated shall file the report with the Department of Revenue Services and mail a copy of the report to the state's attorney for the judicial district in which the alleged offense was committed and to each person offering the cash bail.

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Sec. 28. Subsection (a) of section 54-53a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) No person who has not made bail may be detained in a community correctional center pursuant to the issuance of a bench warrant of arrest or for arraignment, sentencing or trial for an offense not punishable by death or life imprisonment without the possibility of release, for longer than forty-five days, unless at the expiration of the forty-five days [he] the person is presented to the court having cognizance of the offense. On each such presentment, the court may reduce, modify or discharge the bail, or may for cause shown remand the person to the custody of the Commissioner of Correction. On the expiration of each successive forty-five-day period, the person may again by motion be presented to the court for such purpose.

Sec. 29. Section 54-82 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) In any criminal case, prosecution or proceeding, the [party] accused may, if [he] the accused so elects when called upon to plead, be tried by the court instead of by the jury; and, in such case, the court shall have jurisdiction to hear and try such case and render judgment and sentence thereon.

(b) If the accused is charged with a crime punishable by death, [or imprisonment for] life imprisonment without the possibility of release or life imprisonment and elects to be tried by the court, the court shall be composed of three judges to be designated by the Chief Court Administrator, or [his] the Chief Court Administrator's designee, who shall name one such judge to preside over the trial. Such judges, or a majority of them, shall have power to decide all questions of law and fact arising upon the trial and render judgment accordingly.

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(c) If the [party] accused does not elect to be tried by the court, [he] the accused shall be tried by a jury of six except that no person [,] charged with an offense which is punishable by death, life imprisonment without the possibility of release or life imprisonment, shall be tried by a jury of less than twelve without [his] such person's consent.

Sec. 30. Section 54-82g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

The accused may challenge peremptorily, in any criminal trial before the Superior Court for any offense punishable by death or life imprisonment without the possibility of release, twenty-five jurors; for any offense punishable by [imprisonment for] life imprisonment, fifteen jurors; for any offense the punishment for which may be imprisonment for more than one year and for less than life, six jurors; and for any other offense, three jurors. In any criminal trial in which the accused is charged with more than one count on the information or where there is more than one information, the number of challenges is determined by the count carrying the highest maximum punishment. The state, on the trial of any criminal prosecution, may challenge peremptorily the same number of jurors as the accused.

Sec. 31. Subsection (a) of section 54-82h of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) In any criminal prosecution to be tried to the jury in the Superior Court if it appears to the court that the trial is likely to be protracted, the court may, in its discretion, direct that, after a jury has been selected, two or more additional jurors shall be added to the jury panel, to be known as "alternate jurors". Such alternate jurors shall have the same qualifications and be selected and subject to examination and challenge in the same manner and to the same extent

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as the jurors constituting the regular panel, provided, in any case when the court directs the selection of alternate jurors, the number of peremptory challenges allowed shall be as follows: In any criminal prosecution the state and the accused may each peremptorily challenge thirty jurors if the offense for which the accused is arraigned is punishable by death or life imprisonment without the possibility of release, eighteen jurors if the offense is punishable by life imprisonment, eight jurors if the offense is punishable by imprisonment for more than one year and for less than life, and four jurors in any other case.

Sec. 32. Section 54-83 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

No person may be convicted of any crime punishable by death or life imprisonment without the possibility of release without the testimony of at least two witnesses, or that which is equivalent thereto.

Sec. 33. Subsection (a) of section 54-91a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) No defendant convicted of a crime, other than a capital felony under section 53a-54b in effect prior to the effective date of this section or murder with special circumstances under section 53a-54b, as amended by this act, in effect on and after the effective date of this section, the punishment for which may include imprisonment for more than one year, may be sentenced, or the defendant's case otherwise disposed of, until a written report of investigation by a probation officer has been presented to and considered by the court, if the defendant is so convicted for the first time in this state; but any court may, in its discretion, order a presentence investigation for a defendant convicted of any crime or offense other than a capital felony under section 53a-54b in effect prior to the effective date of this section or

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murder with special circumstances under section 53a-54b, as amended by this act, in effect on and after the effective date of this section.

Sec. 34. Subsection (b) of section 54-102jj of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) Upon the conviction of a person of a capital felony under section 53a-54b in effect prior to the effective date of this section or murder with special circumstances under section 53a-54b, as amended by this act, in effect on and after the effective date of this section or the conviction of a person of a crime after trial, or upon order of the court for good cause shown, the state police, all local police departments, any agent of the state police or a local police department and any other person to whom biological evidence has been transferred shall preserve all biological evidence acquired during the course of the investigation of such crime for the term of such person's incarceration.

Sec. 35. Subsection (b) of section 54-125a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) (1) No person convicted of any of the following offenses, which was committed on or after July 1, 1981, shall be eligible for parole under subsection (a) of this section: Capital felony, as provided in section 53a-54b in effect prior to the effective date of this section, or murder with special circumstances, as provided in section 53a-54b, as amended by this act, in effect on and after the effective date of this section, felony murder, as provided in section 53a-54c, arson murder, as provided in section 53a-54d, murder, as provided in section 53a-54a, as amended by this act, or aggravated sexual assault in the first degree, as provided in section 53a-70a. (2) A person convicted of (A) a violation of section 53a-100aa or 53a-102, or (B) an offense, other than an offense specified in subdivision (1) of this subsection, where the

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underlying facts and circumstances of the offense involve the use, attempted use or threatened use of physical force against another person shall be ineligible for parole under subsection (a) of this section until such person has served not less than eighty-five per cent of the definite sentence imposed.

Sec. 36. Subsection (d) of section 54-125d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(d) Notwithstanding any provision of the general statutes, a sentencing court may refer any person convicted of an offense other than a capital felony under section 53a-54b in effect prior to the effective date of this section or a class A felony who is an alien to the Board of Pardons and Paroles for deportation under this section.

Sec. 37. Section 54-131b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

The Board of Pardons and Paroles may release on medical parole any inmate serving any sentence of imprisonment, except an inmate convicted of a capital felony [as defined in] under section 53a-54b in effect prior to the effective date of this section or murder with special circumstances under section 53a-54b, as amended by this act, in effect on and after the effective date of this section, who has been diagnosed pursuant to section 54-131c as suffering from a terminal condition, disease or syndrome, and is so debilitated or incapacitated by such condition, disease or syndrome as to be physically incapable of presenting a danger to society. Notwithstanding any provision of the general statutes to the contrary, the Board of Pardons and Paroles may release such inmate at any time during the term of [his] such inmate's sentence.

Sec. 38. Subsection (a) of section 54-131k of the general statutes is

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repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The Board of Pardons and Paroles may grant a compassionate parole release to any inmate serving any sentence of imprisonment, except an inmate convicted of a capital felony [, as defined in] under section 53a-54b in effect prior to the effective date of this section or murder with special circumstances under section 53a-54b, as amended by this act, in effect on and after the effective date of this section, if it finds that such inmate (1) is so physically or mentally debilitated, incapacitated or infirm as a result of advanced age or as a result of a condition, disease or syndrome that is not terminal as to be physically incapable of presenting a danger to society, and (2) (A) has served not less than one-half of such inmate's definite or aggregate sentence, or (B) has served not less than one-half of such inmate's remaining definite or aggregate sentence after commutation of the original sentence by the Board of Pardons and Paroles.

Sec. 39. Section 54-193 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) There shall be no limitation of time within which a person may be prosecuted for a capital felony under section 53a-54b in effect prior to the effective date of this section, a class A felony or a violation of section 53a-54d or 53a-169.

(b) No person may be prosecuted for any offense, except a capital felony under section 53a-54b in effect prior to the effective date of this section, a class A felony or a violation of section 53a-54d or 53a-169, for which the punishment is or may be imprisonment in excess of one year, except within five years next after the offense has been committed. No person may be prosecuted for any other offense, except a capital felony under section 53a-54b in effect prior to the effective date of this section, a class A felony or a violation of section 53a-54d or

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53a-169, except within one year next after the offense has been committed.

(c) If the person against whom an indictment, information or complaint for any of said offenses is brought has fled from and resided out of this state during the period so limited, it may be brought against such person at any time within such period, during which such person resides in this state, after the commission of the offense.

(d) When any suit, indictment, information or complaint for any crime may be brought within any other time than is limited by this section, it shall be brought within such time.

Vetoed June 5, 2009