



House of Representatives

General Assembly

File No. 726

January Session, 2009

House Bill No. 6578

House of Representatives, April 20, 2009

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

AN ACT CONCERNING THE PENALTY FOR A CAPITAL FELONY.

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

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 Section 53a-54b of the general statutes is repealed and the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

4 A person is guilty of [a capital felony] murder with special
5 circumstances who is convicted of any of the following: (1) Murder of a
6 member of the Division of State Police within the Department of Public
7 Safety or of any local police department, a chief inspector or inspector
8 in the Division of Criminal Justice, a state marshal who is exercising
9 authority granted under any provision of the general statutes, a
10 judicial marshal in performance of the duties of a judicial marshal, a
11 constable who performs criminal law enforcement duties, a special
12 policeman appointed under section 29-18, a conservation officer or
13 special conservation officer appointed by the Commissioner of
14 Environmental Protection under the provisions of section 26-5, an
15 employee of the Department of Correction or a person providing

16 services on behalf of said department when such employee or person
17 is acting within the scope of such employee's or person's employment
18 or duties in a correctional institution or facility and the actor is
19 confined in such institution or facility, or any firefighter, while such
20 victim was acting within the scope of such victim's duties; (2) murder
21 committed by a defendant who is hired to commit the same for
22 pecuniary gain or murder committed by one who is hired by the
23 defendant to commit the same for pecuniary gain; (3) murder
24 committed by one who has previously been convicted of intentional
25 murder or of murder committed in the course of commission of a
26 felony; (4) murder committed by one who was, at the time of
27 commission of the murder, under sentence of life imprisonment; (5)
28 murder by a kidnapper of a kidnapped person during the course of the
29 kidnapping or before such person is able to return or be returned to
30 safety; (6) murder committed in the course of the commission of sexual
31 assault in the first degree; (7) murder of two or more persons at the
32 same time or in the course of a single transaction; or (8) murder of a
33 person under sixteen years of age.

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

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

50 years; (5) for the class B felony of manslaughter in the first degree with
51 a firearm under section 53a-55a, a term not less than five years nor
52 more than forty years; (6) for a class B felony other than manslaughter
53 in the first degree with a firearm under section 53a-55a, a term not less
54 than one year nor more than twenty years, except that for a conviction
55 under section 53a-59(a)(1), 53a-59a, 53a-70a, 53a-94a, 53a-101(a)(1) or
56 53a-134(a)(2), the term shall be not less than five years nor more than
57 twenty years; (7) for a class C felony, a term not less than one year nor
58 more than ten years, except that for a conviction under section 53a-56a,
59 the term shall be not less than three years nor more than ten years; (8)
60 for a class D felony, a term not less than one year nor more than five
61 years, except that for a conviction under section 53a-60b or 53a-217, the
62 term shall be not less than two years nor more than five years, for a
63 conviction under section 53a-60c, the term shall be not less than three
64 years nor more than five years, and for a conviction under section 53a-
65 216, the term shall be five years; (9) for an unclassified felony, a term in
66 accordance with the sentence specified in the section of the general
67 statutes that defines the crime.

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

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

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

80 (a) Murder is punishable as a class A felony in accordance with
81 subdivision (2) of section 53a-35a unless it is a capital felony
82 committed prior to the effective date of this section, punishable in

83 accordance with subparagraph (A) of subdivision (1) of section 53a-
84 35a, as amended by this act, murder with special circumstances
85 committed on or after the effective date of this section, punishable as a
86 class A felony in accordance with subparagraph (B) of subdivision (1)
87 of section 53a-35a, as amended by this act, or murder under section
88 53a-54d.

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

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

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

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

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

108 (c) Murder is punishable as a class A felony in accordance with
109 subdivision (2) of section 53a-35a unless it is a capital felony
110 committed prior to the effective date of this section, punishable in
111 accordance with subparagraph (A) of subdivision (1) of section 53a-
112 35a, as amended by this act, murder with special circumstances
113 committed on or after the effective date of this section, punishable as a

114 class A felony in accordance with subparagraph (B) of subdivision (1)
115 of section 53a-35a, as amended by this act, or murder under section
116 53a-54d.

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

120 (m) (1) The State Board of Education may revoke any certificate,
121 authorization or permit issued pursuant to sections 10-144o to 10-149,
122 inclusive, for any of the following reasons: (A) The holder of the
123 certificate, authorization or permit obtained such certificate,
124 authorization or permit through fraud or misrepresentation of a
125 material fact; (B) the holder has persistently neglected to perform the
126 duties for which the certificate, authorization or permit was granted;
127 (C) the holder is professionally unfit to perform the duties for which
128 the certificate, authorization or permit was granted; (D) the holder is
129 convicted in a court of law of a crime involving moral turpitude or of
130 any other crime of such nature that in the opinion of the board
131 continued holding of a certificate, authorization or permit by the
132 person would impair the standing of certificates, authorizations or
133 permits issued by the board; or (E) other due and sufficient cause. The
134 State Board of Education shall revoke any certificate, authorization or
135 permit issued pursuant to said sections if the holder is found to have
136 intentionally disclosed specific questions or answers to students or
137 otherwise improperly breached the security of any administration of a
138 state-wide examination pursuant to section 10-14n. In any revocation
139 proceeding pursuant to this section, the State Board of Education shall
140 have the burden of establishing the reason for such revocation by a
141 preponderance of the evidence. Revocation shall be in accordance with
142 procedures established by the State Board of Education pursuant to
143 chapter 54.

144 (2) When the Commissioner of Education is notified, pursuant to
145 section 10-149a or 17a-101i that a person holding a certificate,
146 authorization or permit issued by the State Board of Education under

147 the provisions of sections 10-144o to 10-149, inclusive, has been
148 convicted of (A) a capital felony, pursuant to section 53a-54b in effect
149 prior to the effective date of this section, (B) arson murder, pursuant to
150 section 53a-54d, (C) a class A felony, (D) a class B felony, except a
151 violation of section 53a-122, 53a-252 or 53a-291, (E) a crime involving
152 an act of child abuse or neglect as described in section 46b-120, or (F) a
153 violation of section 53-21, 53-37a, 53a-60b, 53a-60c, 53a-71, 53a-72a, 53a-
154 72b, 53a-73a, 53a-88, 53a-99, 53a-103a, 53a-181c, 53a-191, 53a-196, 53a-
155 196c, 53a-216, 53a-217b or 21a-278 or subsection (a) of section 21a-277,
156 any certificate, permit or authorization issued by the State Board of
157 Education and held by such person shall be deemed revoked and the
158 commissioner shall notify such person of such revocation, provided
159 such person may request reconsideration pursuant to regulations
160 adopted by the State Board of Education, in accordance with the
161 provisions of chapter 54. As part of such reconsideration process, the
162 board shall make the initial determination as to whether to uphold or
163 overturn the revocation. The commissioner shall make the final
164 determination as to whether to uphold or overturn the revocation.

165 (3) The State Board of Education may deny an application for a
166 certificate, authorization or permit for any of the following reasons: (A)
167 The applicant seeks to obtain a certificate, authorization or permit
168 through fraud or misrepresentation of a material fact; (B) the applicant
169 has been convicted in a court of law of a crime involving moral
170 turpitude or of any other crime of such nature that in the opinion of
171 the board issuance of a certificate, authorization or permit would
172 impair the standing of certificates, authorizations or permits issued by
173 the board; or (C) other due and sufficient cause. Any applicant denied
174 a certificate, authorization or permit shall be notified in writing of the
175 reasons for denial. Any applicant denied a certificate, authorization or
176 permit may request a review of such denial by the State Board of
177 Education.

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

180 Notwithstanding the provisions of sections 10-144o to 10-146b,
181 inclusive, and 10-149, the State Board of Education shall not issue or
182 reissue any certificate, authorization or permit pursuant to said
183 sections if (1) the applicant for such certificate, authorization or permit
184 has been convicted of any of the following: (A) A capital felony, as
185 defined in section 53a-54b in effect prior to the effective date of this
186 section; (B) arson murder, as defined in section 53a-54d; (C) any class
187 A felony; (D) any class B felony except a violation of section 53a-122,
188 53a-252 or 53a-291; (E) a crime involving an act of child abuse or
189 neglect as described in section 46b-120; or (F) a violation of section 53-
190 21, 53-37a, 53a-60b, 53a-60c, 53a-71, 53a-72a, 53a-72b, 53a-73a, 53a-88,
191 53a-99, 53a-103a, 53a-181c, 53a-191, 53a-196, 53a-196c, 53a-216, 53a-
192 217b or 21a-278 or a violation of subsection (a) of section 21a-277, and
193 (2) the applicant completed serving the sentence for such conviction
194 within the five years immediately preceding the date of the
195 application.

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

199 (a) The court shall automatically transfer from the docket for
200 juvenile matters to the regular criminal docket of the Superior Court
201 the case of any child charged with the commission of a capital felony
202 under section 53a-54b in effect prior to the effective date of this section,
203 a class A or B felony or a violation of section 53a-54d, provided such
204 offense was committed after such child attained the age of fourteen
205 years and counsel has been appointed for such child if such child is
206 indigent. Such counsel may appear with the child but shall not be
207 permitted to make any argument or file any motion in opposition to
208 the transfer. The child shall be arraigned in the regular criminal docket
209 of the Superior Court at the next court date following such transfer,
210 provided any proceedings held prior to the finalization of such transfer
211 shall be private and shall be conducted in such parts of the courthouse
212 or the building wherein court is located as shall be separate and apart
213 from the other parts of the court which are then being held for

214 proceedings pertaining to adults charged with crimes. The file of any
215 case so transferred shall remain sealed until the end of the tenth
216 working day following such arraignment unless the state's attorney
217 has filed a motion pursuant to this subsection, in which case such file
218 shall remain sealed until the court makes a decision on the motion. A
219 state's attorney may, not later than ten working days after such
220 arraignment, file a motion to transfer the case of any child charged
221 with the commission of a class B felony or a violation of subdivision (2)
222 of subsection (a) of section 53a-70 to the docket for juvenile matters for
223 proceedings in accordance with the provisions of this chapter. The
224 court sitting for the regular criminal docket shall, after hearing and not
225 later than ten working days after the filing of such motion, decide such
226 motion.

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

230 (a) Nothing in this part shall be construed as preventing the arrest of
231 a child, with or without a warrant, as may be provided by law, or as
232 preventing the issuance of warrants by judges in the manner provided
233 by section 54-2a, as amended by this act, except that no child shall be
234 taken into custody on such process except on apprehension in the act,
235 or on speedy information, or in other cases when the use of such
236 process appears imperative. Whenever a child is arrested and charged
237 with a crime, such child may be required to submit to the taking of his
238 photograph, physical description and fingerprints. Notwithstanding
239 the provisions of section 46b-124, the name, photograph and custody
240 status of any child arrested for the commission of a capital felony
241 under section 53a-54b in effect prior to the effective date of this section
242 or class A felony may be disclosed to the public.

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

246 (c) (1) In any case in which a person has been convicted of a felony,

247 other than a capital felony under section 53a-54b in effect prior to the
248 effective date of this section or murder with special circumstances
249 under section 53a-54b, as amended by this act, in effect on and after the
250 effective date of this section, the official records of evidence or judicial
251 proceedings in the court may be destroyed upon the expiration of
252 twenty years from the date of imposition of the sentence in such case
253 or upon the expiration of the sentence imposed upon such person,
254 whichever is later.

255 (2) In any case in which a person has been convicted after trial of a
256 capital felony under section 53a-54b in effect prior to the effective date
257 of this section or murder with special circumstances under section 53a-
258 54b, as amended by this act, in effect on and after the effective date of
259 this section, the official records of evidence or judicial proceedings in
260 the court may be destroyed upon the expiration of seventy-five years
261 from the date of imposition of the sentence in such case.

262 (3) In any case in which a person has been found not guilty, or in
263 any case that has been dismissed or was not prosecuted, the court may
264 order the destruction or disposal of all exhibits entered in such case
265 upon the expiration of ninety days from the date of final disposition of
266 such case, unless a prior disposition of such exhibits has been ordered
267 pursuant to section 54-36a. In any case in which a nolle has been
268 entered, the court may order the destruction or disposal of all exhibits
269 entered in such case upon the expiration of thirteen months from the
270 date of final disposition of such case. Not less than thirty days prior to
271 the scheduled destruction or disposal of exhibits under this
272 subdivision, the clerk of the court shall send notice to all parties and
273 any party may request a hearing on the issue of such destruction or
274 disposal before the court in which the matter is pending.

275 (4) In any case in which a person has been convicted of a
276 misdemeanor or has been adjudicated a youthful offender, the court
277 may order the destruction or disposal of all exhibits entered in such
278 case upon the expiration of ten years from the date of imposition of the
279 sentence in such case or upon the expiration of the sentence imposed

280 on such person, whichever is later, unless a prior disposition of such
281 exhibits has been ordered pursuant to section 54-36a. Not less than
282 thirty days prior to the scheduled destruction or disposal of exhibits
283 under this subdivision, the clerk of the court shall send notice to all
284 parties and any party may request a hearing on the issue of such
285 destruction or disposal before the court in which the matter is pending.

286 (5) In any case in which a person is charged with multiple offenses,
287 no destruction or disposal of exhibits may be ordered under this
288 subsection until the longest applicable retention period under this
289 subsection has expired. The provisions of this subdivision and
290 subdivisions (3), (4) and (6) of this subsection shall apply to any
291 criminal or motor vehicle case disposed of before, on or after October
292 1, 2006.

293 (6) The retention period for the official records of evidence and
294 exhibits in any habeas corpus proceeding, petition for a new trial or
295 other proceeding arising out of a criminal case in which a person has
296 been convicted shall be the same as the applicable retention period
297 under this subsection for the criminal case from which such
298 proceeding or petition arose.

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

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

304 (b) The following matters shall be taken directly to the Supreme
305 Court: (1) Any matter brought pursuant to the original jurisdiction of
306 the Supreme Court under section 2 of article sixteen of the
307 amendments to the Constitution; (2) an appeal in any matter where the
308 Superior Court declares invalid a state statute or a provision of the
309 state Constitution; (3) an appeal in any criminal action involving a
310 conviction for a capital felony under section 53a-54b in effect prior to
311 the effective date of this section, class A felony [,] or any other felony,

312 including any persistent offender status, for which the maximum
313 sentence which may be imposed exceeds twenty years; (4) review of a
314 sentence of death pursuant to section 53a-46b, as amended by this act;
315 (5) any election or primary dispute brought to the Supreme Court
316 pursuant to section 9-323 or 9-325; (6) an appeal of any reprimand or
317 censure of a probate judge pursuant to section 45a-65; (7) any matter
318 regarding judicial removal or suspension pursuant to section 51-51j; (8)
319 an appeal of any decision of the Judicial Review Council pursuant to
320 section 51-51r; (9) any matter brought to the Supreme Court pursuant
321 to section 52-265a; (10) writs of error; and (11) any other matter as
322 provided by law.

323 Sec. 14. Section 51-246 of the general statutes is repealed and the
324 following is substituted in lieu thereof (*Effective from passage*):

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

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

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

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

344 (a) (1) Each judge of the Supreme Court, each judge of the Appellate
345 Court, each judge of the Superior Court and each judge of the Court of
346 Common Pleas who ceases or has ceased to hold office because of
347 retirement other than under the provisions of section 51-49 and who is
348 an elector and a resident of this state shall be a state referee for the
349 remainder of such judge's term of office as a judge and shall be eligible
350 for appointment as a state referee during the remainder of such judge's
351 life in the manner prescribed by law for the appointment of a judge of
352 the court of which such judge is a member. The Superior Court may
353 refer any civil, nonjury case or with the written consent of the parties
354 or their attorneys, any civil jury case pending before the court in which
355 the issues have been closed to a judge trial referee who shall have and
356 exercise the powers of the Superior Court in respect to trial, judgment
357 and appeal in the case, and any proceeding resulting from a demand
358 for a trial de novo pursuant to subsection (e) of section 52-549z may be
359 referred without the consent of the parties to a judge trial referee who
360 has been specifically designated to hear such proceedings pursuant to
361 subsection (b) of this section. The Superior Court may, with the
362 consent of the parties or their attorneys, refer any criminal case to a
363 judge trial referee who shall have and exercise the powers of the
364 Superior Court in respect to trial, judgment, sentencing and appeal in
365 the case, except that the Superior Court may, without the consent of
366 the parties or their attorneys, (A) refer any criminal case, other than a
367 criminal jury trial, to a judge trial referee assigned to a geographical
368 area criminal court session, and (B) refer any criminal case, other than
369 a class A or B felony or capital felony under section 53a-54b in effect
370 prior to the effective date of this section, to a judge trial referee to
371 preside over the jury selection process and any voir dire examination
372 conducted in such case, unless good cause is shown not to refer.

373 (2) Each judge of the Circuit Court who has ceased to hold office
374 because of retirement other than under the provisions of section 51-49
375 and who is an elector and a resident of this state shall be a state referee
376 for the remainder of such judge's term of office as a judge and shall be
377 eligible for appointment as a state referee during the remainder of such
378 judge's life in the manner prescribed by law for the appointment of a

379 judge of the court of which such judge is a member, to whom the
380 Superior Court may, with the written consent of the parties or their
381 attorneys, refer any case pending in court in which the issues have
382 been closed and which the judges of the Superior Court may establish
383 by rule to be the kind of case which may be heard by such referees
384 who have been appointed judge trial referees pursuant to subsection
385 (b) of this section. The judge trial referee shall hear any such case so
386 referred and report the facts to the court by which the case was
387 referred.

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

403 (4) In addition to the judge trial referees who are appointed
404 pursuant to subdivision (1), (2) or (3) of this subsection, the Chief
405 Justice may appoint, from qualified members of the bar of the state,
406 who are electors and residents of this state, as many state referees as
407 the Chief Justice may from time to time deem advisable or necessary.
408 No appointment of a member of the bar may be for a term of more
409 than three years. Notwithstanding the provisions of subsection (f) of
410 this section, state referees appointed by the Chief Justice from
411 members of the bar shall receive such reasonable compensation and
412 expenses as may be determined by the Chief Justice. The Superior

413 Court may appoint a state referee pursuant to this subdivision to take
414 such evidence as it directs in any civil, nonjury case including, but not
415 limited to, appeals under section 8-8. Any such state referee shall
416 report on such evidence to the court with any findings of fact. The
417 report shall constitute a part of the proceeding upon which the
418 determination of the court shall be made.

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

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

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

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

446 than a capital felony under section 53a-54b in effect prior to the
447 effective date of this section, a class A felony or a violation of section
448 21a-278, 21a-278a, 53a-55, 53a-56, 53a-56b, 53a-57, 53a-58 or 53a-70b or
449 any offense for which there is a mandatory minimum sentence which
450 may not be suspended or reduced by the court, and any sentence of
451 imprisonment is suspended, participate in an alternate incarceration
452 program; (9) reside in a residential community center or halfway
453 house approved by the Commissioner of Correction, and contribute to
454 the cost incident to such residence; (10) participate in a program of
455 community service labor in accordance with section 53a-39c; (11)
456 participate in a program of community service in accordance with
457 section 51-181c; (12) if convicted of a violation of subdivision (2) of
458 subsection (a) of section 53-21, section 53a-70, 53a-70a, 53a-70b, 53a-71,
459 53a-72a or 53a-72b, undergo specialized sexual offender treatment; (13)
460 if convicted of a criminal offense against a victim who is a minor, a
461 nonviolent sexual offense or a sexually violent offense, as defined in
462 section 54-250, or of a felony that the court finds was committed for a
463 sexual purpose, as provided in section 54-254, register such person's
464 identifying factors, as defined in section 54-250, with the
465 Commissioner of Public Safety when required pursuant to section 54-
466 251, 54-252 or 54-253, as the case may be; (14) be subject to electronic
467 monitoring, which may include the use of a global positioning system;
468 (15) if convicted of a violation of section 46a-58, 53-37a, 53a-181j, 53a-
469 181k or 53a-181l, participate in an anti-bias crime education program;
470 (16) if convicted of a violation of section 53-247, undergo psychiatric or
471 psychological counseling or participate in an animal cruelty
472 prevention and education program provided such a program exists
473 and is available to the defendant; or (17) satisfy any other conditions
474 reasonably related to the defendant's rehabilitation. The court shall
475 cause a copy of any such order to be delivered to the defendant and to
476 the probation officer, if any.

477 Sec. 19. Subsection (b) of section 53a-35 of the general statutes is
478 repealed and the following is substituted in lieu thereof (*Effective from*
479 *passage*):

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

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

493 (a) In all cases where a defendant has been convicted of a
494 misdemeanor or a felony, other than a capital felony under section 53a-
495 54b in effect prior to the effective date of this section, a class A felony
496 or a violation of section 21a-278, 21a-278a, 53a-55, 53a-56, 53a-56b, 53a-
497 57, 53a-58 or 53a-70b or any other offense for which there is a
498 mandatory minimum sentence which may not be suspended or
499 reduced by the court, after trial or by a plea of guilty without trial, and
500 a term of imprisonment is part of a stated plea agreement or the
501 statutory penalty provides for a term of imprisonment, the court may,
502 in its discretion, order an assessment for placement in an alternate
503 incarceration program under contract with the Judicial Department. If
504 the Court Support Services Division recommends placement in an
505 alternate incarceration program, it shall also submit to the court a
506 proposed alternate incarceration plan. Upon completion of the
507 assessment, the court shall determine whether such defendant shall be
508 ordered to participate in such program as an alternative to
509 incarceration. If the court determines that the defendant shall
510 participate in such program, the court shall suspend any sentence of
511 imprisonment and shall make participation in the alternate
512 incarceration program a condition of probation as provided in section
513 53a-30, as amended by this act.

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

517 (a) A persistent offender of crimes involving assault, stalking,
518 trespass, threatening, harassment, criminal violation of a protective
519 order or criminal violation of a restraining order is a person who (1)
520 stands convicted of assault under section 53a-61, stalking under section
521 53a-181d, threatening under section 53a-62, harassment under section
522 53a-183, criminal violation of a protective order under section 53a-223,
523 criminal violation of a restraining order under section 53a-223b or
524 criminal trespass under section 53a-107 or 53a-108, and (2) has, within
525 the five years preceding the commission of the present crime, been
526 convicted of a capital felony under section 53a-54b in effect prior to the
527 effective date of this section, a class A felony, a class B felony, except a
528 conviction under section 53a-86 or 53a-122, a class C felony, except a
529 conviction under section 53a-87, 53a-152 or 53a-153, or a class D felony
530 under sections 53a-60 to 53a-60c, inclusive, 53a-72a, 53a-72b, 53a-95,
531 53a-103, 53a-103a, 53a-114, 53a-136 or 53a-216, assault under section
532 53a-61, stalking under section 53a-181d, threatening under section 53a-
533 62, harassment under section 53a-183, criminal violation of a protective
534 order under section 53a-223, criminal violation of a restraining order
535 under section 53a-223b, or criminal trespass under section 53a-107 or
536 53a-108 or has been released from incarceration with respect to such
537 conviction, whichever is later.

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

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

546 Sec. 23. Subsection (a) of section 53a-182b of the general statutes is

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

549 (a) A person is guilty of harassment in the first degree when, with
550 the intent to harass, annoy, alarm or terrorize another person, he
551 threatens to kill or physically injure that person or any other person,
552 and communicates such threat by telephone, or by telegraph, mail,
553 computer network, as defined in section 53a-250, or any other form of
554 written communication, in a manner likely to cause annoyance or
555 alarm and has been convicted of a capital felony under section 53a-54b
556 in effect prior to the effective date of this section, a class A felony, a
557 class B felony, except a conviction under section 53a-86 or 53a-122, a
558 class C felony, except a conviction under section 53a-87, 53a-152 or 53a-
559 153, or a class D felony under sections 53a-60 to 53a-60c, inclusive, 53a-
560 72a, 53a-72b, 53a-95, 53a-103, 53a-103a, 53a-114, 53a-136 or 53a-216. For
561 the purposes of this section, "convicted" means having a judgment of
562 conviction entered by a court of competent jurisdiction.

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

566 (a) A person is guilty of criminal possession of body armor when he
567 possesses body armor and has been (1) convicted of a capital felony
568 under section 53a-54b in effect prior to the effective date of this section,
569 a class A felony, except a conviction under section 53a-196a, a class B
570 felony, except a conviction under section 53a-86, 53a-122 or 53a-196b, a
571 class C felony, except a conviction under section 53a-87, 53a-152 or 53a-
572 153 or a class D felony under sections 53a-60 to 53a-60c, inclusive, 53a-
573 72a, 53a-72b, 53a-95, 53a-103, 53a-103a, 53a-114, 53a-136 or 53a-216, or
574 (2) convicted as delinquent for the commission of a serious juvenile
575 offense, as defined in section 46b-120.

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

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

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

594 (a) No person charged by the state, who has not been indicted by a
595 grand jury prior to May 26, 1983, shall be put to plea or held to trial for
596 any crime punishable by death, life imprisonment without the
597 possibility of release or life imprisonment unless the court at a
598 preliminary hearing determines there is probable cause to believe that
599 the offense charged has been committed and that the accused person
600 has committed it. The accused person may knowingly and voluntarily
601 waive such preliminary hearing to determine probable cause.

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

604 Each person detained in a community correctional center pursuant
605 to the issuance of a bench warrant of arrest or for arraignment,
606 sentencing or trial for an offense not punishable by death or life
607 imprisonment without the possibility of release shall be entitled to bail
608 and shall be released from such institution upon entering into a
609 recognizance, with sufficient surety, or upon posting cash bail as
610 provided in section 54-66, for the detained person's appearance before
611 the court having cognizance of the offense, to be taken by any person

612 designated by the Commissioner of Correction at the institution where
613 the person is detained. The person so designated shall deliver the
614 recognizance or cash bail to the clerk of the appropriate court before
615 the opening of the court on the first court day thereafter. When cash
616 bail in excess of ten thousand dollars is received for a detained person
617 accused of a felony, where the underlying facts and circumstances of
618 the felony involve the use, attempted use or threatened use of physical
619 force against another person, the person so designated shall prepare a
620 report that contains (1) the name, address and taxpayer identification
621 number of the detained person, (2) the name, address and taxpayer
622 identification number of each person offering the cash bail, other than
623 a person licensed as a professional bondsman under chapter 533 or a
624 surety bail bond agent under chapter 700f, (3) the amount of cash
625 received, and (4) the date the cash was received. Not later than fifteen
626 days after receipt of such cash bail, the person so designated shall file
627 the report with the Department of Revenue Services and mail a copy of
628 the report to the state's attorney for the judicial district in which the
629 alleged offense was committed and to each person offering the cash
630 bail.

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

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

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

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

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

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

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

668 The accused may challenge peremptorily, in any criminal trial
669 before the Superior Court for any offense punishable by death or life
670 imprisonment without the possibility of release, twenty-five jurors; for
671 any offense punishable by [imprisonment for] life imprisonment,
672 fifteen jurors; for any offense the punishment for which may be
673 imprisonment for more than one year and for less than life, six jurors;
674 and for any other offense, three jurors. In any criminal trial in which
675 the accused is charged with more than one count on the information or
676 where there is more than one information, the number of challenges is

677 determined by the count carrying the highest maximum punishment.
678 The state, on the trial of any criminal prosecution, may challenge
679 peremptorily the same number of jurors as the accused.

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

683 (a) In any criminal prosecution to be tried to the jury in the Superior
684 Court if it appears to the court that the trial is likely to be protracted,
685 the court may, in its discretion, direct that, after a jury has been
686 selected, two or more additional jurors shall be added to the jury
687 panel, to be known as "alternate jurors". Such alternate jurors shall
688 have the same qualifications and be selected and subject to
689 examination and challenge in the same manner and to the same extent
690 as the jurors constituting the regular panel, provided, in any case when
691 the court directs the selection of alternate jurors, the number of
692 peremptory challenges allowed shall be as follows: In any criminal
693 prosecution the state and the accused may each peremptorily
694 challenge thirty jurors if the offense for which the accused is arraigned
695 is punishable by death or life imprisonment without the possibility of
696 release, eighteen jurors if the offense is punishable by life
697 imprisonment, eight jurors if the offense is punishable by
698 imprisonment for more than one year and for less than life, and four
699 jurors in any other case.

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

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

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

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

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

725 (b) Upon the conviction of a person of a capital felony under section
726 53a-54b in effect prior to the effective date of this section or murder
727 with special circumstances under section 53a-54b, as amended by this
728 act, in effect on and after the effective date of this section or the
729 conviction of a person of a crime after trial, or upon order of the court
730 for good cause shown, the state police, all local police departments,
731 any agent of the state police or a local police department and any other
732 person to whom biological evidence has been transferred shall
733 preserve all biological evidence acquired during the course of the
734 investigation of such crime for the term of such person's incarceration.

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

738 (b) (1) No person convicted of any of the following offenses, which
739 was committed on or after July 1, 1981, shall be eligible for parole
740 under subsection (a) of this section: Capital felony, as provided in

741 section 53a-54b in effect prior to the effective date of this section, or
742 murder with special circumstances, as provided in section 53a-54b, as
743 amended by this act, in effect on and after the effective date of this
744 section, felony murder, as provided in section 53a-54c, arson murder,
745 as provided in section 53a-54d, murder, as provided in section 53a-54a,
746 as amended by this act, or aggravated sexual assault in the first degree,
747 as provided in section 53a-70a. (2) A person convicted of (A) a
748 violation of section 53a-100aa or 53a-102, or (B) an offense, other than
749 an offense specified in subdivision (1) of this subsection, where the
750 underlying facts and circumstances of the offense involve the use,
751 attempted use or threatened use of physical force against another
752 person shall be ineligible for parole under subsection (a) of this section
753 until such person has served not less than eighty-five per cent of the
754 definite sentence imposed.

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

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

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

765 The Board of Pardons and Paroles may release on medical parole
766 any inmate serving any sentence of imprisonment, except an inmate
767 convicted of a capital felony [as defined in] under section 53a-54b in
768 effect prior to the effective date of this section or murder with special
769 circumstances under section 53a-54b, as amended by this act, in effect
770 on and after the effective date of this section, who has been diagnosed
771 pursuant to section 54-131c as suffering from a terminal condition,
772 disease or syndrome, and is so debilitated or incapacitated by such
773 condition, disease or syndrome as to be physically incapable of

774 presenting a danger to society. Notwithstanding any provision of the
775 general statutes to the contrary, the Board of Pardons and Paroles may
776 release such inmate at any time during the term of [his] such inmate's
777 sentence.

778 Sec. 38. Subsection (a) of section 54-131k of the general statutes is
779 repealed and the following is substituted in lieu thereof (*Effective from*
780 *passage*):

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

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

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

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

806 committed. No person may be prosecuted for any other offense, except
 807 a capital felony under section 53a-54b in effect prior to the effective
 808 date of this section, a class A felony or a violation of section 53a-54d or
 809 53a-169, except within one year next after the offense has been
 810 committed.

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

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage and applicable to crimes committed on or after said date</i>	53a-54b
Sec. 2	<i>from passage</i>	53a-35a
Sec. 3	<i>from passage</i>	53a-35b
Sec. 4	<i>from passage</i>	53a-45(a)
Sec. 5	<i>from passage</i>	53a-46a(a)
Sec. 6	<i>from passage</i>	53a-46b(a)
Sec. 7	<i>from passage</i>	53a-54a(c)
Sec. 8	<i>from passage</i>	10-145b(m)
Sec. 9	<i>from passage</i>	10-145i
Sec. 10	<i>from passage</i>	46b-127(a)
Sec. 11	<i>from passage</i>	46b-133(a)
Sec. 12	<i>from passage</i>	51-36(c)
Sec. 13	<i>from passage</i>	51-199(b)
Sec. 14	<i>from passage</i>	51-246
Sec. 15	<i>from passage</i>	51-286c
Sec. 16	<i>from passage</i>	52-434(a)
Sec. 17	<i>from passage</i>	53a-25(b)
Sec. 18	<i>from passage</i>	53a-30(a)

Sec. 19	<i>from passage</i>	53a-35(b)
Sec. 20	<i>from passage</i>	53a-39a(a)
Sec. 21	<i>from passage</i>	53a-40d(a)
Sec. 22	<i>from passage</i>	53a-46d
Sec. 23	<i>from passage</i>	53a-182b(a)
Sec. 24	<i>from passage</i>	53a-217d(a)
Sec. 25	<i>from passage</i>	54-2a(b)
Sec. 26	<i>from passage</i>	54-46a(a)
Sec. 27	<i>from passage</i>	54-53
Sec. 28	<i>from passage</i>	54-53a(a)
Sec. 29	<i>from passage</i>	54-82
Sec. 30	<i>from passage</i>	54-82g
Sec. 31	<i>from passage</i>	54-82h(a)
Sec. 32	<i>from passage</i>	54-83
Sec. 33	<i>from passage</i>	54-91a(a)
Sec. 34	<i>from passage</i>	54-102jj(b)
Sec. 35	<i>from passage</i>	54-125a(b)
Sec. 36	<i>from passage</i>	54-125d(d)
Sec. 37	<i>from passage</i>	54-131b
Sec. 38	<i>from passage</i>	54-131k(a)
Sec. 39	<i>from passage</i>	54-193

JUD *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Various Criminal Justice Agencies	GF - Net Savings	Potential Significant	Potential Significant

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill eliminates the death penalty as a sentencing option for crimes committed on or after the bill's effective date. On an annual basis, repeal of the death penalty is expected to result in state savings of up to \$4 million from a reduction in litigation costs. The full amount of these savings would not be achieved for several years, however, since litigation would continue for those offenders presently on death row or facing the death penalty.

Litigation Savings

The state would save up to \$4 million annually in defense and prosecution costs due to a repeal of the death penalty. The state would also avoid significant, intermittent costs to state agencies to carry out executions and litigate cases before the CT Supreme Court. These savings would be partially offset by additional costs to incarcerate prisoners for terms of life rather than being executed prior.

The state Public Defender Services Commission maintains a Capital Defense and Trial Services Unit consisting of 14 staff members that costs approximately \$2 million annually (including fringe benefits budgeted centrally within the Office of the State Comptroller) to operate. It is anticipated that this unit could be eliminated entirely

with the repeal of the death penalty. The Division of Criminal Justice's expenditures attributable to the death penalty are not concentrated in a single cost center or entirely among particular employees. However, it is expected that a significant amount of savings could be obtained within that agency, as well.

The Judicial Department could experience minimal savings (overtime, travel reimbursements and other expenses) to the extent that future extraordinary judicial proceedings, such as the Saturday morning session of the Connecticut Supreme Court held on January 22, 2005, to hear a motion in a death penalty case, are precluded. Likewise, the Public Defender Services Commission and Division of Criminal Justice could avoid future extraordinary costs related to litigation over the constitutionality of the death penalty (e.g., in aggregate, these state agencies will have spent approximately \$830,000 since FY 07 to hire expert witnesses to determine whether or not racial bias exists in the imposition of the death penalty).

Corrections Costs / Savings

The Department of Correction incurred costs in the amount of \$316,000 to carry out an execution in 2005. These costs would be foregone for future executions that would be eliminated by the bill.

However, these savings would be offset by the costs to the DOC to the extent that inmates serve lengthier periods of incarceration: serving the term of life rather than being executed prior.

The average cost of incarceration for an inmate at Northern Correctional Institution, where Death Row is located, is \$96,000 per year. There are currently 10 men on death row at Northern which results in an annual cost of \$960,000 to incarcerate them. The average age is 38.5. The national average of time spent on death row prior to execution is about 13 years. Given the lack of fully litigated executions in CT, the cost of additional prison time for these men in lieu of execution is unknown.

The Out Years

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

*Sources: Annual Report of the Chief Public Defender
State Comptroller's Annual Report of per diem cost estimates*

OLR Bill Analysis**HB 6578*****AN ACT CONCERNING THE PENALTY FOR A CAPITAL FELONY.*****SUMMARY:**

This bill renames the crime of capital felony as murder with special circumstances, eliminates the death penalty as a sentencing option for crimes committed starting on the bill's effective date, and makes the penalty for this new crime life imprisonment without the possibility of release. Under current law, the penalty for a capital felony is either the death penalty or life imprisonment without the possibility of release.

EFFECTIVE DATE: Upon passage, and the crime of murder with special circumstances applies to crimes committed starting on the date the bill passes.

MURDER WITH SPECIAL CIRCUMSTANCES

The bill makes a number of technical and conforming changes to apply most of the same rules that apply to capital felonies to murder with special circumstances, such as:

1. preserving biological evidence and records of evidence and judicial proceedings,
2. authorizing the court to allow the reading of a victim impact statement in court before imposing the sentence on the defendant,
3. choosing a jury or three-judge panel,
4. challenging potential jurors,
5. requiring testimony of at least two witnesses or their equivalent for a conviction, and

6. prohibiting medical or compassionate release parole.

Bail

Under the Connecticut Constitution, a person is eligible for bail unless he or she is charged with a capital offense “where the proof is evident or the presumption great.” Thus, most people charged with capital felonies are ineligible for bail. Because murder with special circumstances is not a capital offense, people charged with this crime would be eligible for bail under the constitution. The bill makes them ineligible for bail when detained under a bench warrant or awaiting arraignment or trial. As with capital felonies under current law, people convicted of murder with special circumstances would be ineligible for post-conviction bail while awaiting sentencing or appealing their conviction.

BACKGROUND

Capital Felony

Currently, a person commits a capital felony if he or she:

1. murders, while the victim was acting within the scope of his or her duties, a police officer, Division of Criminal Justice inspector, state marshal exercising statutory authority, judicial marshal performing duties, constable performing law enforcement duties, special policeman, conservation or special conservation officer appointed by the environmental protection commissioner, Department of Correction (DOC) employee or service provider acting within the scope of employment in a correctional facility and the perpetrator is an inmate, or firefighter;
2. murders for pay or hires someone to murder;
3. murders and was previously convicted of intentional murder or murder while a felony was committed;
4. murders while sentenced to life imprisonment;

5. murders a kidnapped person and is the kidnapper;
6. murders while committing 1st degree sexual assault;
7. murders two or more people at the same time or in the course of a single transaction; or
8. murders a person under age 16.

Sentencing Hearing

Currently, a person convicted of a capital felony must be sentenced to either the death penalty or life imprisonment without the possibility of release. The jury, or the court if the defendant chooses, weighs mitigating and aggravating factors in a separate sentencing hearing to decide whether to impose the death penalty. The jury or court cannot impose the death penalty and must sentence the person to life imprisonment without the possibility of release if mitigating factors outweigh, or are of equal weight to, the aggravating factors or if any of five automatic bars to the death penalty exist. Otherwise, the person must be sentenced to death.

Aggravating Factors

Currently, the only aggravating factors that the jury or court can consider are that the defendant:

1. committed the offense while committing or attempting to commit a felony, or while fleeing from the commission of or attempt to commit a felony, and had previously been convicted of the same felony;
2. had been convicted of at least two state or federal offenses prior to the offense, each of which was committed on different occasions, involved serious bodily injury, and had a maximum penalty of at least one year imprisonment;
3. committed the offense knowingly creating a risk of death to another person in addition to the victim of the offense;

4. committed the offense in an especially heinous, cruel, or depraved manner;
5. procured someone else to commit the offense by paying or promising to pay anything of pecuniary value;
6. committed the offense in return for payment or the expectation of payment;
7. committed the offense with an assault weapon; or
8. murdered a police officer, Division of Criminal Justice inspector, state marshal exercising statutory authority, judicial marshal performing duties, constable performing law enforcement duties, special policeman, conservation or special conservation officer appointed by the environmental protection commissioner, DOC employee or service provider acting within the scope of employment in a correctional facility (the perpetrator must be an inmate), or firefighter while the victim was acting within the scope of duty and the perpetrator committed the murder to (a) avoid arrest for or prevent detection of a criminal act, (b) hamper or prevent the victim from carrying out an act within the scope of official duties, or (c) retaliate against the victim for performing official duties.

Mitigating Factors

Currently, the jury or court must determine if a particular factor concerning the defendant's character, background, or history or the nature and circumstances of the crime is established by the evidence and whether that factor is mitigating, considering all the facts and circumstances of the case. Mitigating factors are not defenses or excuses for the capital felony of which the defendant was convicted, but are factors that, in fairness and mercy, tend either to extenuate or reduce the defendant's blame for the offense or otherwise provide a reason for a sentence less than death.

Bars to the Death Penalty

Currently, five factors automatically bar the death penalty. A defendant cannot receive the death penalty if the court or jury determines that he or she:

1. was under age 18 at the time of the crime;
2. was mentally retarded at the time of the crime;
3. had a mental capacity or ability to conform his or her conduct to the requirements of law that was significantly impaired at the time of the crime (but not so impaired as to constitute a defense);
4. was guilty of a capital felony only as an accessory and had relatively minor participation; and
5. could not reasonably have foreseen that the conduct, in the course of committing the crime he or she was convicted of, would cause someone's death.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 24 Nay 13 (03/31/2009)