



House of Representatives

General Assembly

File No. 974

January Session, 2009

Substitute House Bill No. 6664

House of Representatives, May 18, 2009

The Committee on Appropriations reported through REP. GERAGOSIAN of the 25th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING REVISIONS TO VARIOUS STATUTES CONCERNING THE CRIMINAL JUSTICE SYSTEM.

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

1 Section 1. (NEW) (*Effective July 1, 2009*) (a) Within available
2 appropriations, juvenile prosecutors employed by the Division of
3 Criminal Justice on the effective date of this section shall be deemed to
4 have been appointed by the Criminal Justice Commission in
5 accordance with section 51-278 of the general statutes and shall have
6 and exercise all the powers and perform all the duties of an assistant
7 state's attorney and have the same jurisdiction as an assistant state's
8 attorney as provided in section 51-281 of the general statutes.

9 (b) Within available appropriations, on and after the effective date
10 of this section, any prosecutorial official assigned to handle juvenile
11 matters in the criminal session of the Superior Court shall have been
12 appointed by the Criminal Justice Commission in accordance with
13 section 51-278 of the general statutes.

14 Sec. 2. Subsection (b) of section 46b-127 of the general statutes is
15 repealed and the following is substituted in lieu thereof (*Effective July*
16 *1, 2009*):

17 (b) Upon motion of a [juvenile prosecutor] prosecutorial official and
18 order of the court, the case of any child charged with the commission
19 of a class C or D felony or an unclassified felony shall be transferred
20 from the docket for juvenile matters to the regular criminal docket of
21 the Superior Court, provided such offense was committed after such
22 child attained the age of fourteen years and the court finds ex parte
23 that there is probable cause to believe the child has committed the act
24 for which he is charged. The file of any case so transferred shall remain
25 sealed until such time as the court sitting for the regular criminal
26 docket accepts such transfer. The court sitting for the regular criminal
27 docket may return any such case to the docket for juvenile matters not
28 later than ten working days after the date of the transfer for
29 proceedings in accordance with the provisions of this chapter. The
30 child shall be arraigned in the regular criminal docket of the Superior
31 Court by the next court date following such transfer, provided any
32 proceedings held prior to the finalization of such transfer shall be
33 private and shall be conducted in such parts of the courthouse or the
34 building wherein court is located as shall be separate and apart from
35 the other parts of the court which are then being held for proceedings
36 pertaining to adults charged with crimes.

37 Sec. 3. Section 46b-133a of the general statutes is repealed and the
38 following is substituted in lieu thereof (*Effective July 1, 2009*):

39 (a) A nolle prosequi may not be entered as to any count of
40 delinquency if the juvenile objects to the nolle prosequi and demands
41 either a trial or dismissal, except with respect to prosecutions in which
42 a nolle prosequi is entered upon a representation to the court by the
43 [juvenile prosecutor] prosecutorial official that a material witness has
44 died, disappeared or become disabled or that material evidence has
45 disappeared or has been destroyed and that a further investigation is
46 therefore necessary.

47 (b) Whenever a nolle prosequi has been entered as to any count of
48 delinquency, or whenever any count of delinquency has been
49 dismissed without prejudice, if at least thirteen months have elapsed
50 since such nolle or dismissal without prejudice, all police and court
51 records pertaining to such count shall be erased. Whenever any such
52 count has been continued at the request of the [juvenile prosecutor]
53 prosecutorial official and a period of thirteen months has elapsed since
54 the granting of such continuance during which period there has been
55 no prosecution or other disposition of the matter, the count shall be
56 construed to have been nolle as of the date of termination of such
57 thirteen-month period and such erasure may thereafter be effected as
58 provided in this subsection for nolle cases.

59 Sec. 4. Section 46b-133b of the general statutes is repealed and the
60 following is substituted in lieu thereof (*Effective July 1, 2009*):

61 (a) The court, on motion of a child charged with a delinquency
62 offense, but not yet convicted, may order that such child be examined
63 to determine whether the child is alcohol-dependent or drug-
64 dependent as defined in section 46b-120. Such motion shall be filed
65 with the court within ten days after a plea is entered, except if waived
66 by the court or pursuant to an agreement by the parties. The results of
67 any examination ordered pursuant to this subsection shall be utilized
68 only for the purposes of determining whether the delinquency
69 proceeding should be suspended under this section.

70 (b) The court, upon motion of the child charged with a delinquency
71 offense but not yet convicted, may order the suspension of the
72 delinquency proceedings for a period of up to one year, order periodic
73 alcohol and drug testing of such child during the period of suspension
74 and order treatment for alcohol or drug dependency if the court, after
75 consideration of information before it concerning the alcohol or drug
76 dependency of the child, finds that (1) the child is alcohol-dependent
77 or drug-dependent as defined in section 46b-120, (2) the child
78 presently needs and is likely to benefit from treatment for the
79 dependency and (3) the suspension of the delinquency proceedings

80 will advance the interests of justice. During the period of suspension, a
81 child shall be placed under the supervision of a juvenile probation
82 officer for treatment for alcohol or drug dependency and such officer
83 shall monitor the compliance of the child with the orders of the court.

84 (c) If the court denies the motion for suspension of the delinquency
85 proceedings, the [juvenile prosecutor] prosecutorial official may
86 proceed with the delinquency proceedings. Any order of the court
87 granting or denying a motion for suspension of the delinquency
88 proceedings shall not be deemed a final order for purposes of appeal.

89 (d) At any time before the end of the period of the suspension of the
90 delinquency proceedings, but not later than one month before the end
91 of the period of suspension, a juvenile probation officer shall notify the
92 court of the impending conclusion of the suspension and submit a
93 report on whether the child has completed the treatment program and
94 has complied with all other conditions of the suspension order
95 imposed by the court.

96 (e) If the court, on motion of the child or on its own motion, finds
97 that the child has completed the treatment program and has complied
98 with all other conditions of suspension, it may dismiss the charge for
99 which the delinquency proceedings had been suspended. If the court
100 denies the motion and terminates the suspension of the delinquency
101 proceedings, the [juvenile prosecutor] prosecutorial official may
102 proceed with such proceedings.

103 (f) The provisions of this section shall not apply to any child
104 charged with a serious juvenile offense as defined in section 46b-120 or
105 any child who was previously ordered treated under this section.

106 Sec. 5. Subsections (a) and (b) of section 46b-133c of the general
107 statutes are repealed and the following is substituted in lieu thereof
108 (*Effective July 1, 2009*):

109 (a) Whenever a child is referred for the commission of a felony
110 committed after such child attained the age of fourteen years and such

111 child is a serious juvenile repeat offender, as defined in section 46b-
112 120, the [juvenile prosecutor] prosecutorial official may request the
113 court to designate the proceeding as a serious juvenile repeat offender
114 prosecution.

115 (b) If a [juvenile prosecutor] prosecutorial official requests that a
116 proceeding be designated a serious juvenile repeat offender
117 prosecution, the court shall hold a hearing not later than thirty days
118 after the filing of such request unless good cause is shown by the
119 [juvenile prosecutor] prosecutorial official or by the child as to why the
120 hearing should not be held within such period. If good cause is shown,
121 the hearing shall be held not later than ninety days after the filing of
122 such request. The court shall decide whether to designate the
123 proceeding as a serious juvenile repeat offender prosecution not later
124 than thirty days after the completion of such hearing. The court shall
125 grant the request to designate the proceeding as a serious juvenile
126 repeat offender prosecution if the [juvenile prosecutor] prosecutorial
127 official shows by clear and convincing evidence that such designation
128 will serve the public safety. The decision to designate the proceeding
129 as a serious juvenile repeat offender prosecution shall not be a final
130 judgment for purposes of appeal.

131 Sec. 6. Subsections (b) and (c) of section 46b-133d of the general
132 statutes are repealed and the following is substituted in lieu thereof
133 (*Effective July 1, 2009*):

134 (b) Whenever a child is referred for the commission of any crime of
135 a sexual nature, and such case is not transferred to the regular criminal
136 docket pursuant to section 46b-127, as amended by this act, the
137 [juvenile prosecutor] prosecutorial official may request the court to
138 designate the proceeding as a serious sexual offender prosecution.

139 (c) If a [juvenile prosecutor] prosecutorial official requests that a
140 proceeding be designated a serious sexual offender prosecution, the
141 court shall hold a hearing not later than thirty days after the filing of
142 such request unless good cause is shown by the [juvenile prosecutor]
143 prosecutorial official or by the child as to why the hearing should not

144 be held within such period. If good cause is shown, the hearing shall
145 be held not later than ninety days after the filing of such request. The
146 court shall decide whether to designate the proceeding as a serious
147 sexual offender prosecution not later than thirty days after the
148 completion of such hearing. The court shall grant the request to
149 designate the proceeding as a serious sexual offender prosecution if
150 the [juvenile prosecutor] prosecutorial official shows by a
151 preponderance of the evidence that such designation will serve the
152 public safety. The decision to designate the proceeding as a serious
153 sexual offender prosecution shall not be a final judgment for purposes
154 of appeal.

155 Sec. 7. Subsection (e) of section 46b-133e of the general statutes is
156 repealed and the following is substituted in lieu thereof (*Effective July*
157 *1, 2009*):

158 (e) If the court denies the motion for suspension of the delinquency
159 proceedings, the [juvenile prosecutor] prosecutorial official may
160 proceed with the delinquency proceedings. Any order of the court
161 granting or denying a motion for suspension of the delinquency
162 proceedings shall not be deemed a final order for purposes of appeal.

163 Sec. 8. Subsection (g) of section 46b-133e of the general statutes is
164 repealed and the following is substituted in lieu thereof (*Effective July*
165 *1, 2009*):

166 (g) If the court, on motion of the child or on its own motion, finds
167 that the child has satisfactorily completed the school violence
168 prevention program and has complied with all other conditions of
169 suspension, and one year has elapsed since the child was placed in
170 such program, it may dismiss the charge for which the delinquency
171 proceedings had been suspended. If the court denies the motion and
172 terminates the suspension of the delinquency proceedings, the
173 [juvenile prosecutor] prosecutorial official may proceed with such
174 proceedings.

175 Sec. 9. Subsection (a) of section 51-285 of the general statutes is

176 repealed and the following is substituted in lieu thereof (*Effective July*
177 *1, 2009*):

178 (a) The Chief State's Attorney may appoint special assistant state's
179 attorneys, special deputy assistant state's attorneys [, special juvenile
180 prosecutors] and special inspectors on a contractual basis for a
181 temporary period of time.

182 Sec. 10. Section 51-286f of the general statutes is repealed and the
183 following is substituted in lieu thereof (*Effective July 1, 2009*):

184 The prosecuting official in a criminal proceeding shall request on
185 the record that a transcript be prepared of any sentencing hearing at
186 which a defendant is sentenced to a definite, nonsuspended sentence
187 of more than two years imprisonment. [and shall cause a copy of such
188 transcript to be delivered] The Chief Court Administrator shall
189 provide, in a format prescribed by the Chief Court Administrator, any
190 such transcript to the Board of Pardons and Paroles.

191 Sec. 11. Subsection (d) of section 54-142s of the general statutes is
192 repealed and the following is substituted in lieu thereof (*Effective from*
193 *passage*):

194 (d) Such information technology system shall include a central,
195 integrated electronic repository of criminal justice records and
196 documents that provides:

197 (1) Access to all state and local police reports, presentence
198 investigations and reports, psychological and medical reports, criminal
199 records, incarceration and parole records, and court records and
200 transcripts, whether such records and documents normally exist in
201 electronic or hard copy form, except that access to state and local police
202 reports and witness statements by the Division of Public Defender
203 Services shall be barred unless authorized by a prosecutorial official;
204 and

205 (2) Access to scanning and processing facilities to ensure that such
206 records and documents are integrated into the system and updated

207 immediately.

208 Sec. 12. Section 53a-172 of the general statutes is repealed and the
209 following is substituted in lieu thereof (*Effective October 1, 2009*):

210 (a) A person is guilty of failure to appear in the first degree when (1)
211 while charged with the commission of a felony and while out on bail
212 or released under other procedure of law, [he] such person wilfully
213 fails to appear when legally called according to the terms of [his] such
214 person's bail bond or promise to appear, or (2) while on probation for
215 conviction of a felony, [he] such person wilfully fails to appear when
216 legally called for [a violation of probation hearing] any court hearing
217 relating to a violation of such probation.

218 (b) Failure to appear in the first degree is a class D felony.

219 Sec. 13. Section 53a-173 of the general statutes is repealed and the
220 following is substituted in lieu thereof (*Effective October 1, 2009*):

221 (a) A person is guilty of failure to appear in the second degree when
222 (1) while charged with the commission of a misdemeanor or a motor
223 vehicle violation for which a sentence to a term of imprisonment may
224 be imposed and while out on bail or released under other procedure of
225 law, [he] such person wilfully fails to appear when legally called
226 according to the terms of [his] such person's bail bond or promise to
227 appear, or (2) while on probation for conviction of a misdemeanor or
228 motor vehicle violation, [he] such person wilfully fails to appear when
229 legally called for [a violation of probation hearing] any court hearing
230 relating to a violation of such probation.

231 (b) Failure to appear in the second degree is a class A misdemeanor.

232 Sec. 14. Subsection (a) of section 53a-70 of the general statutes is
233 repealed and the following is substituted in lieu thereof (*Effective*
234 *October 1, 2009*):

235 (a) A person is guilty of sexual assault in the first degree when such
236 person (1) compels another person to engage in sexual intercourse by

237 the use of force against such other person or a third person, or by the
238 threat of use of force against such other person or against a third
239 person which reasonably causes such person to fear physical injury to
240 such person or a third person, or (2) engages in sexual intercourse with
241 another person and such other person is ten years of age or older but
242 under thirteen years of age and the actor is more than two years older
243 than such person, or (3) commits sexual assault in the second degree as
244 provided in section 53a-71 and in the commission of such offense is
245 aided by two or more other persons actually present, or (4) engages in
246 sexual intercourse with another person and such other person is
247 mentally incapacitated to the extent that such other person is unable to
248 consent to such sexual intercourse; or (5) engages in sexual intercourse
249 with another person and such other person is under ten years of age
250 and the actor is more than two years older than such person.

251 Sec. 15. Subsection (b) of section 53a-70 of the general statutes is
252 repealed and the following is substituted in lieu thereof (*Effective*
253 *October 1, 2009*):

254 (b) (1) Except as provided in subdivision (2) of this subsection,
255 sexual assault in the first degree is a class B felony for which two years
256 of the sentence imposed may not be suspended or reduced by the
257 court or, if the victim of the offense is under ten years of age, for which
258 ten years of the sentence imposed may not be suspended or reduced
259 by the court.

260 (2) Sexual assault in the first degree is a class A felony if the offense
261 is a violation of subdivision (1) of subsection (a) of this section and the
262 victim of the offense is under sixteen years of age or the offense is a
263 violation of subdivision (2) of subsection (a) of this section. Any person
264 found guilty under said subdivision (1) or (2) shall be sentenced to a
265 term of imprisonment of which ten years of the sentence imposed may
266 not be suspended or reduced by the court if the victim is under ten
267 years of age or of which five years of the sentence imposed may not be
268 suspended or reduced by the court if the victim is under sixteen years
269 of age.

270 (3) Any person found guilty under this section shall be sentenced to
271 a term of imprisonment and a period of special parole pursuant to
272 subsection (b) of section 53a-28 which together constitute a sentence of
273 at least ten years.

274 (4) Notwithstanding the provisions of this subsection concerning the
275 imposition of a mandatory minimum sentence, the court may suspend
276 the execution of such mandatory minimum sentence if at the time of
277 the commission of the offense (A) such person was under eighteen
278 years of age, or (B) such person's mental capacity was significantly
279 impaired but not so impaired as to constitute a defense to prosecution.

280 Sec. 16. Section 54-85a of the general statutes is repealed and the
281 following is substituted in lieu thereof (*Effective October 1, 2009*):

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

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

293 Sec. 17. Section 51-237 of the general statutes is repealed and the
294 following is substituted in lieu thereof (*Effective October 1, 2009*):

295 Each juror, duly chosen, drawn and summoned, who fails to appear
296 shall [have committed an infraction] be subject to a civil penalty, the
297 amount of which shall be established by the judges of the superior
298 court, but the court may excuse [him] such juror from the payment
299 thereof. If a sufficient number of the jurors summoned do not appear,
300 or if for any cause there is not a sufficient number of jurors to make up

301 the panel, the court may order such number of persons who qualify for
302 jury service under section 51-217 to be summoned as may be
303 necessary, as talesmen, and any talesman so summoned who makes
304 default of appearance without sufficient cause shall [have committed
305 an infraction] be subject to a civil penalty, the amount of which shall be
306 established by the judges of the superior court. The provision of this
307 section shall be enforced by the Attorney General within available
308 appropriations.

309 Sec. 18. Section 53a-137 of the general statutes is repealed and the
310 following is substituted in lieu thereof (*Effective October 1, 2009*):

311 The following definitions are applicable to this part:

312 (1) "Written instrument" means any instrument or article containing
313 written or printed matter or the equivalent thereof, used for the
314 purpose of reciting, embodying, conveying or recording information
315 or constituting a symbol or evidence of value, right, privilege or
316 identification, which is capable of being used to the advantage or
317 disadvantage of some person.

318 (2) "Complete written instrument" means [one] a written instrument
319 which purports to be a genuine written instrument fully drawn with
320 respect to every essential feature thereof. An endorsement, attestation,
321 acknowledgment or other similar signature or statement is deemed
322 both a complete written instrument in itself and a part of the main
323 instrument in which it is contained or to which it attaches.

324 (3) "Incomplete written instrument" means [one] a written
325 instrument which contains some matter by way of content or
326 authentication but which requires additional matter in order to render
327 it a complete written instrument.

328 (4) A person "falsely makes" a written instrument when [he] (A)
329 such person makes or draws a complete written instrument in its
330 entirety, or an incomplete written instrument, which purports to be an
331 authentic creation of its ostensible maker or drawer, but which is not

332 such either because the ostensible maker or drawer is fictitious or
333 because, if real, [he] the ostensible maker or drawer did not authorize
334 the making or drawing thereof, or (B) such person signs his or her own
335 name to a written instrument, thereby falsely and fraudulently
336 representing that he or she has authority to sign in such capacity.

337 (5) A person "falsely completes" a written instrument when (A) such
338 person, by adding, inserting or changing matter, [he] transforms an
339 incomplete written instrument into a complete [one] written
340 instrument, without the authority of [anyone] any person entitled to
341 grant it, so that such complete written instrument appears or purports
342 to be in all respects an authentic creation of or fully authorized by its
343 ostensible maker or drawer, or (B) such person signs his or her own
344 name to a written instrument, thereby falsely and fraudulently
345 representing that he or she has authority to sign in such capacity.

346 (6) A person "falsely alters" a written instrument when (A) such
347 person, without the authority of [anyone] any person entitled to grant
348 it, [he] changes a written instrument, whether it be in complete or
349 incomplete form, by means of erasure, obliteration, deletion, insertion
350 of new matter [,] or transposition of matter [,] or in any other manner,
351 so that such instrument in its thus altered form appears or purports to
352 be in all respects an authentic creation of or fully authorized by its
353 ostensible maker or drawer, or (B) such person signs his or her own
354 name to a written instrument, thereby falsely and fraudulently
355 representing that he or she has authority to sign in such capacity.

356 (7) "Forged instrument" means a written instrument which has been
357 falsely made, completed or altered.

358 Sec. 19. Subsection (b) of section 54-76l of the general statutes is
359 repealed and the following is substituted in lieu thereof (*Effective*
360 *October 1, 2009*):

361 (b) The records of any such youth, or any part thereof, may be
362 disclosed to and between individuals and agencies, and employees of
363 such agencies, providing services directly to the youth, including law

364 enforcement officials, state and federal prosecutorial officials, school
 365 officials in accordance with section 10-233h, court officials, the Division
 366 of Criminal Justice, the Court Support Services Division and an
 367 advocate appointed pursuant to section 54-221 for a victim of a crime
 368 committed by the youth. Such records shall also be available to the
 369 attorney representing the youth, in any proceedings in which such
 370 records are relevant, to the parents or guardian of such youth, until
 371 such time as the youth reaches the age of majority or is emancipated,
 372 and to the youth upon his or her emancipation or attainment of the age
 373 of majority, provided proof of the identity of such youth is submitted
 374 in accordance with guidelines prescribed by the Chief Court
 375 Administrator. Such records shall also be available to members and
 376 employees of the Board of Pardons and Paroles and employees of the
 377 Department of Correction who, in the performance of their duties,
 378 require access to such records, provided the subject of the record has
 379 been adjudged a youthful offender and sentenced to a term of
 380 imprisonment or been convicted of a crime in the regular criminal
 381 docket of the Superior Court, and such records are relevant to the
 382 performance of a risk and needs assessment of such person while such
 383 person is incarcerated, the determination of such person's suitability
 384 for release from incarceration or for a pardon, or the determination of
 385 the supervision and treatment needs of such person while on parole or
 386 other supervised release. Such records shall also be available to law
 387 enforcement officials and prosecutorial officials conducting legitimate
 388 criminal investigations. Such records disclosed pursuant to this
 389 subsection shall not be further disclosed.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2009	New section
Sec. 2	July 1, 2009	46b-127(b)
Sec. 3	July 1, 2009	46b-133a
Sec. 4	July 1, 2009	46b-133b
Sec. 5	July 1, 2009	46b-133c(a) and (b)
Sec. 6	July 1, 2009	46b-133d(b) and (c)
Sec. 7	July 1, 2009	46b-133e(e)

Sec. 8	<i>July 1, 2009</i>	46b-133e(g)
Sec. 9	<i>July 1, 2009</i>	51-285(a)
Sec. 10	<i>July 1, 2009</i>	51-286f
Sec. 11	<i>from passage</i>	54-142s(d)
Sec. 12	<i>October 1, 2009</i>	53a-172
Sec. 13	<i>October 1, 2009</i>	53a-173
Sec. 14	<i>October 1, 2009</i>	53a-70(a)
Sec. 15	<i>October 1, 2009</i>	53a-70(b)
Sec. 16	<i>October 1, 2009</i>	54-85a
Sec. 17	<i>October 1, 2009</i>	51-237
Sec. 18	<i>October 1, 2009</i>	53a-137
Sec. 19	<i>October 1, 2009</i>	54-761(b)

APP *Joint Favorable Subst.*

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 State Agencies	GF - See Below	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

Sections 1 - 9 require the Criminal Justice Commission, within available appropriations, to: (1) appoint any prosecutors assigned to handle juvenile matters on or after the July 1, 2009, effective date; and (2) consider appointed any prosecutors assigned to handle juvenile matters who are currently employed by the Division of Criminal Justice. This change is anticipated to accelerate the advancement of juvenile prosecutors in accordance with the collective bargaining agreement (through FY 10) between the Division of Criminal Justice and the Connecticut Association of Prosecutors.¹

The FY 10 potential cost to increase the salaries of nine existing staff members under the bill is estimated to be \$47,000. This approximate cost would continue into the future until these incumbent employees have reached the salary limits of their positions.

The cost of this provision as it relates to future juvenile prosecutors is uncertain, pending subsequent collective bargaining agreements for

¹ Juvenile prosecutors are unable to advance in accordance with Article 16, Section 4 a (1) of the collective bargaining agreement because it requires approval by the Criminal Justice Commission. (This provision of the collective bargaining agreement permits prosecutors, once they have at least two years' satisfactory service, to advance from salary step #2 directly to salary step #5.)

FY 11 and beyond, and the number of juvenile attorneys appointed. If future collective bargaining contracts retain the provision that allows for accelerated advancement, then juvenile attorneys appointed on or after the effective date of the bill would be eligible for a salary increase of approximately \$8,000 in the third year of employment. One or two juvenile attorneys are typically hired in any given year. This trend is anticipated to continue into the future except for the year (FY 10) in which the age of juveniles is scheduled to be raised; as many as 15 additional juvenile prosecutors could be added that year. The out year (FY 13) potential cost associated with this group is estimated to be \$100,000.

Since the bill requires the agency to implement this provision within available appropriations, passage of the bill would require the agency to either: (1) reallocate existing funding for this purpose from another program; (2) incur additional costs; or (3) delay or not implement this program due to lack of funding.

The Criminal Justice Commission may incur costs to process additional appointments under the bill. Any such cost is anticipated to be less than \$500 annually.

Section 10 shifts responsibility for providing copies of transcripts from the Division of Criminal Justice to the Judicial Department. The annual cost to provide these copies prospectively is approximately \$50,000 each year.² To the extent that copies of transcripts are also required for current inmates who will become eligible for parole at some point in the future, an additional cost estimated to be less than \$150,000 will be incurred over the next several years.

Sections 11 - 14 make clarifying and minor changes that have no fiscal impact.

Section 15 permits the court to deviate from mandatory minimum sentences in certain instances, which could result in state savings

² Calculated as follows: 2,300 sentenced to 2 years or more each year * 25 pages per transcript * 75 cents per page (court reporter fee per CGS 53-65(c)).

related to incarceration.

Section 16 makes a change to the sequestering of certain witnesses which has no fiscal impact.

Section 17 makes it a civil penalty, the amount of which is to be determined by the Judicial Department in accordance with the bill, for any person to fail to appear for jury duty. Each year approximately 26,000 people do not respond to the summons to appear for jury service. In accordance with the bill, the Office of the Attorney General (OAG) must, within available appropriations, bring such civil actions before the Judicial Department. The OAG could incur significant costs annually to undertake this duty; the potential revenue gain is uncertain, pending determination of the fine amount and the success of enforcement actions. Current law provides that failure to appear is an infraction; no revenues are collected pursuant to this provision.

Since the bill requires the agency to implement this provision within available appropriations, passage of the bill would require the OAG to either: (1) reallocate existing funding for this purpose from another program; (2) incur additional costs; or (3) delay or not implement this program due to lack of funding.

Section 18 expands the definition of forgery to include signing of a written instrument fraudulently representing that a person had the authority to sign in the capacity that s/he did.³ To the extent that offenders are subject to incarceration or probation supervision in the community as a result of this provision, a potential cost to criminal justice agencies exists. On average, it costs the state \$3,736 to supervise an offender on probation in the community as compared to \$44,165 to incarcerate the offender.

³ Two cases, *State v. Raffa* and *State v. Robert Kuchta*, have shown that the definition of forgery does not include public officials who "signed off" on official building inspection reports when they did not have authority to do so.

Forgery Convictions			
			2008
53a-138	FORGERY 1	Class C Felony	44
53a-139	FORGERY 2	Class D Felony	489
53a-140	FORGERY 3	Class B Misdemeanor	273
			<hr/>
			806

Section 19 makes Youthful Offender records available to law enforcement and prosecutorial officials conducting criminal investigations, which has no fiscal impact.

The Out Years

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

OLR Bill Analysis

sHB 6664

***AN ACT CONCERNING REVISIONS TO VARIOUS STATUTES
CONCERNING THE CRIMINAL JUSTICE SYSTEM.***

SUMMARY:

This bill:

1. appears to lower the maximum possible penalty for violations of first-degree sexual assault against a victim under age 10;
2. allows a court to suspend the mandatory minimum sentence for first-degree sexual assault if at the time of the offense, the offender was under age 18 or his or her mental capacity was significantly impaired;
3. exempts from the law on witness sequestration certain adult witnesses in child assault, sexual assault, or abuse cases;
4. modifies the penalty for jurors who fail to respond to a jury summons;
5. provides that juvenile prosecutors employed by the Division of Criminal Justice on July 1, 2009, are within available appropriations, considered appointed by the Criminal Justice Commission with the powers and duties of assistant state's attorneys;
6. requires the court, instead of the prosecutor, to provide a transcript of certain sentencing hearings to the Board of Pardons and Paroles;
7. limits access to state and local police reports and witness statements by the Division of Public Defender Services unless

authorized by a prosecutorial official;

8. expands the circumstances under which a person on probation is guilty of failure to appear;
9. expands the crime of forgery to punish someone who falsely makes, completes, or alters a written instrument by signing his or her own name to it to falsely and fraudulently represent that he or she has authority to sign the document; and
10. makes confidential youthful offender records available to law enforcement and prosecutorial officials conducting legitimate criminal investigations.

EFFECTIVE DATE: October 1, 2009 except the provisions concerning juvenile prosecutors and provisions of sentencing transcripts, which are effective July 1, 2009, and the provision limiting law enforcement access to certain information held by the Division of Public Defender Services, which is effective on passage.

§§ 1-9 — JUVENILE PROSECUTORS

The bill provides that, within available appropriations, juvenile prosecutors employed by the Division of Criminal Justice on July 1, 2009 (1) are deemed to have been appointed by the Criminal Justice Commission and, (2) have and exercise all the powers and perform all the duties of an assistant state's attorney. It also provides that such prosecutors may act in any judicial district and in connection with any matter regardless of the judicial district where the offense took place, and may be assigned to act in any judicial district at any time on designation by the chief state's attorney. The bill makes numerous conforming changes.

The bill also provides that beginning July 1, 2009, any "prosecutorial official" assigned to handle juvenile matters in the criminal session of the Superior Court will have been appointed by the Criminal Justice Commission.

Apparently the term “prosecutorial official” refers to the chief state’s attorney, each deputy chief state’s attorney, and each state’s attorney, assistant state’s attorney, and deputy assistant state’s attorney (CGS §§ 51-278a & 51-287a).

§ 10—SENTENCING TRANSCRIPTS

By law, prosecutors must request transcripts of certain sentencing hearings for delivery to the Board of Pardons and Paroles. The bill requires the prosecutor’s request to be on the record and makes the court, instead of the prosecutor, responsible for delivering the transcript to the board. The affected sentencing hearings are those at which a defendant is sentenced to a definite, non-suspended sentence of more than two years’ imprisonment.

§ 11 — ACCESS TO CERTAIN INFORMATION

Current law gives state and local criminal justice agencies access to all state and local police reports, presentence investigations and reports, psychological and medical reports, criminal records, incarceration and parole records, and court records and transcripts in the statewide criminal justice information technology system whether such records and documents normally exist in electronic or hard copy forms. The bill prohibits access to state and local police reports and witness statements by the Division of Public Defender Services unless authorized by a prosecutorial official.

§§ 12-13 — FAILURE TO APPEAR

The bill expands the circumstances under which a person on probation for a felony conviction or a misdemeanor or motor vehicle violation is guilty of failure to appear. Under current law, the person is guilty if he or she misses a legally called probation violation hearing. Under the bill, the person is guilty if he or she is misses any legally called court hearing related to a probation violation.

Failure to appear at a hearing on a felony violation is a class D felony punishable by up to five years in prison, a \$5,000 fine or both. Failure to appear for a hearing on a misdemeanor or motor vehicle

violation is a class A misdemeanor punishable by up to one year in prison, a fine of up to \$2,000, or both.

§§ 14-15 — SEXUAL ASSAULT

The bill separates first-degree sexual assault involving sexual intercourse with a minor under age 13 by a person two years older into two distinct crimes, one covering minor victims between ages 10 and 13 and the other covering minor victims under age 10.

The new crime of sexual intercourse with a person under age 10 is a class B felony punishable by up to 20 years in prison, up to a \$15,000 fine, or both. Ten years of the prison sentence cannot be reduced or suspended. The new crime of sexual intercourse with a person between ages 10 and 13 is a class A felony, punishable by 10 to 25 years in prison, up to a \$20,000 fine or both. Under current law unchanged by the bill, if the victim is under age 10, the penalty carries a mandatory minimum sentence of 10 years. However, since the victim of this crime cannot be under age 10, it appears that the bill effectively reduces the classification and maximum allowable sentence for first-degree sexual assault involving sexual intercourse with a victim under age 10 by a person more than two years older.

The bill allows the court to suspend the mandatory minimum sentence if, at the time of the offense, the offender was under age 18 or his or her mental capacity was significantly impaired.

§ 16 — SEQUESTERING A WITNESS

By law, if the state or defense asks, the court must sequester a witness during portions of a trial when the witness is not testifying. The bill exempts from this requirement criminal cases involving the assault, sexual assault, or abuse of a child age 12 or younger if the witness is an adult (1) the child knows, (2) with whom the child feels comfortable, and (3) who has the court's permission to sit near the child as he or she testifies.

§ 17 — FAILURE TO APPEAR FOR JURY DUTY

The bill subjects jurors who fail to appear for jury duty to a civil

penalty in an amount that the Superior Court judges must establish. Under current law, the jurors are guilty of an infraction. The bill requires the attorney general, within available appropriations, to enforce the provision.

§ 18 — FORGERY

The bill expands the crime of forgery to punish someone who falsely makes, completes, or alters a written instrument by signing his or her own name to it to falsely and fraudulently represent that he or she has authority to sign the document.

By law, a person commits forgery by (1) falsely making, completing, or altering a written instrument with intent to defraud, deceive, or injure someone or (2) possessing a forged written instrument. The penalty ranges from a class B misdemeanor to a class C felony depending on the type of document being forged.

§ 19 — YOUTHFUL OFFENDER RECORDS

The bill makes confidential youthful offender records available to law enforcement and prosecutorial officials conducting legitimate criminal investigations. By law, records of youthful offenders are confidential unless they involve certain crimes. Current law allows disclosure of confidential records:

1. between agencies and individuals directly providing services to the youth, including law enforcement, state and federal prosecutors, school and court officials, the Division of Criminal Justice, the Court Support Services Division, and a crime victim advocate;
2. to the youth and the youth's parents or guardian until the youth reaches age 18 or is emancipated;
3. to the youth's attorney if they are relevant to a proceeding; and
4. to Board of Pardons and Paroles and correction employees who need them to perform their duties when (a) the offender is

adjudged a youthful offender and sentenced to prison or convicted of a crime on the regular superior court docket and (b) the records are relevant to a risk and needs assessment during incarceration or determining suitability for release or a pardon or supervision and treatment needs on parole or other release.

By law, records disclosed under these provisions cannot be further disclosed.

BACKGROUND

Juvenile Prosecutors

Under existing law, juvenile prosecutors are appointed by the state's attorney for the judicial district where the prosecutor serves. But most other prosecutors are appointed by the Criminal Justice Commission, a constitutionally created Executive Branch agency. Juvenile prosecutors can only handle cases on the juvenile docket; assistant state's attorneys can handle cases on both the juvenile and adult dockets.

Legislative History

On April 29, 2009 the House referred the bill (File 769) to the Appropriations Committee, which voted out a substitute on May 5, 2009. The substitute requires several actions to be carried out but within available appropriations and gives the attorney general enforcement authority over jurors who fail to appear.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute
Yea 42 Nay 0