



House of Representatives

General Assembly

File No. 750

January Session, 2009

Substitute House Bill No. 6697

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 substitute bill ought to pass.

AN ACT ESTABLISHING A SENTENCING COMMISSION.

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

1 Section 1. (NEW) (*Effective October 1, 2009*) (a) There is established a
2 Connecticut Sentencing Commission which shall be within the Office
3 of Policy and Management for administrative purposes only.

4 (b) The mission of the commission shall be to review the existing
5 criminal sentencing structure in the state and any proposed changes
6 thereto, including existing statutes, proposed legislation and existing
7 and proposed sentencing policies and practices and make
8 recommendations to the Governor, the General Assembly and
9 appropriate criminal justice agencies.

10 (c) In fulfilling its mission, the commission shall be mindful that the
11 primary purpose of sentencing in this state is to enhance public safety
12 while holding the offender accountable to the community. Sentencing
13 is to reflect the seriousness of the offense and should be proportional
14 to the harm to victims and the community, utilizing the most

15 appropriate sanctions available, including incarceration, community
16 punishment and supervision. Sentencing should have as an overriding
17 goal the reduction of criminal activity, the imposition of just
18 punishment and the provision of meaningful and effective
19 rehabilitation and reintegration of the offender. Sentences should be
20 fair, just and equitable while promoting respect for the law.

21 (d) The commission shall be composed of the following members:

22 (1) Seven members of the General Assembly appointed as follows:

23 (A) The president pro tempore of the Senate shall appoint one member
24 of the Senate from the majority party who serves on the joint standing
25 committee of the General Assembly having cognizance of matters
26 relating to appropriations and the budgets of state agencies, (B) the
27 speaker of the House of Representatives shall appoint one member of
28 the House of Representatives from the majority party who serves on
29 the joint standing committee of the General Assembly having
30 cognizance of matters relating to the judiciary, (C) the minority leader
31 of the Senate shall appoint one member of the Senate from the
32 minority party who serves on the joint standing committee of the
33 General Assembly having cognizance of matters relating to the
34 judiciary, (D) the minority leader of the House of Representatives shall
35 appoint one member of the House of Representatives from the
36 minority party who serves on the joint standing committee of the
37 General Assembly having cognizance of matters relating to
38 appropriations and the budgets of state agencies, (E) the African-
39 American Affairs Commission shall appoint one member of the
40 General Assembly, (F) the Latino and Puerto Rican Affairs
41 Commission shall appoint one member of the General Assembly, and
42 (G) the Permanent Commission on the Status of Women shall appoint
43 one member of the General Assembly;

44 (2) Two judges appointed by the Chief Justice of the Supreme Court,
45 one of whom shall serve for a term of one year and one of whom shall
46 serve for a term of three years;

47 (3) One representative of the Court Support Services Division of the

48 Judicial Branch appointed by the Chief Justice of the Supreme Court,
49 who shall serve for a term of two years;

50 (4) The Commissioner of Correction, who shall serve for a term
51 coterminous with his or her term of office;

52 (5) The Chief State's Attorney, who shall serve for a term
53 coterminous with his or her term of office;

54 (6) The Chief Public Defender, who shall serve for a term
55 coterminous with his or her term of office;

56 (7) One state's attorney appointed by the Chief State's Attorney,
57 who shall serve for a term of three years;

58 (8) One member of the criminal defense bar appointed by the
59 president of the Connecticut Criminal Defense Lawyers Association,
60 who shall serve for a term of three years;

61 (9) The Victim Advocate, who shall serve for a term coterminous
62 with his or her term of office;

63 (10) The chairperson of the Board of Pardons and Paroles, who shall
64 serve for a term coterminous with his or her term of office;

65 (11) The Commissioner of Public Safety, who shall serve for a term
66 coterminous with his or her term of office;

67 (12) A municipal police chief appointed by the president of the
68 Connecticut Police Chiefs Association, who shall serve for a term of
69 two years;

70 (13) The Commissioner of Mental Health and Addiction Services,
71 who shall serve for a term coterminous with his or her term of office;

72 (14) The undersecretary of the Criminal Justice Policy and Planning
73 Division within the Office of Policy and Management, who shall serve
74 for a term coterminous with his or her term of office;

75 (15) Four members of the public, appointed as follows: (A) The
76 president pro tempore of the Senate and the speaker of the House of
77 Representatives shall jointly appoint a formerly incarcerated person or
78 an advocate for formerly incarcerated persons, who shall serve for a
79 term of four years, (B) the Governor shall appoint a crime victim or a
80 victim advocate, who shall serve for a term of four years, (C) the Chief
81 Justice of the Supreme Court shall appoint an academic, who shall
82 serve for a term of four years, and (D) the minority leader of the Senate
83 and the minority leader of the House of Representatives shall jointly
84 appoint a member of a civil rights organization involved in addressing
85 issues of racial disparity in the criminal justice system, who shall serve
86 for a term of four years; and

87 (16) An active or retired judge appointed by the Chief Justice of the
88 Supreme Court, who shall serve as chairperson of the commission and
89 serve for a term of four years.

90 (e) The commission shall elect a vice-chairperson from among the
91 membership. Appointed members of the commission shall serve for
92 the term specified in subsection (d) of this section and may be
93 reappointed. Any vacancy in the appointed membership of the
94 commission shall be filled by the appointing authority for the
95 unexpired portion of the term.

96 (f) The commission shall:

97 (1) Facilitate the development and maintenance of a state-wide
98 sentencing database in collaboration with existing state and local
99 agencies;

100 (2) Evaluate current sentencing statutes, policies and practices
101 including conducting a cost-benefit analysis;

102 (3) Conduct sentencing trends analyses and studies and prepare
103 offender profiles;

104 (4) Provide training regarding sentencing and related issues,
105 policies and practices;

- 106 (5) Act as a sentencing policy resource for the state;
- 107 (6) Preserve judicial discretion and provide for individualized
108 sentencing;
- 109 (7) Evaluate the impact of pre-trial, sentencing diversion,
110 incarceration and post-release supervision programs;
- 111 (8) Perform fiscal impact analyses on selected proposed criminal
112 justice legislation; and
- 113 (9) Identify potential areas of sentencing disparity relevant to racial,
114 ethnic, gender and socioeconomic status.
- 115 (g) Upon completion of the state-wide sentencing database
116 provided in subdivision (1) of subsection (f) of this section, the
117 commission shall review criminal justice legislation as requested and
118 as resources allow.
- 119 (h) The commission shall make recommendations concerning
120 criminal justice legislation, including proposed modifications thereto,
121 to the joint standing committee of the General Assembly having
122 cognizance of matters relating to the judiciary which shall hold a
123 hearing thereon.
- 124 (i) The commission shall have access to confidential information
125 received by sentencing courts and the Board of Pardons and Paroles
126 including, but not limited to, arrest data, criminal history records,
127 medical records and other nonconviction information.
- 128 (j) The commission shall obtain full and complete information with
129 respect to programs and other activities and operations of the state.
- 130 (k) The commission may request any office, department, board,
131 commission or other agency of the state or any political subdivision of
132 the state to supply such records, information and assistance as may be
133 necessary or appropriate in order for the commission to carry out its
134 duties. Each officer or employee of such office, department, board,

135 commission or other agency of the state or any political subdivision of
136 the state is authorized and directed to cooperate with the commission
137 and to furnish such records, information and assistance.

138 (l) Any records or information supplied to the commission that is
139 confidential in accordance with any provision of the general statutes
140 shall remain confidential while in the custody of the commission and
141 shall not be disclosed. Any penalty for the disclosure of such records
142 or information applicable to the officials, employees and authorized
143 representatives of the office, department, board, commission or other
144 agency of the state or any political subdivision of the state that
145 supplied such records or information shall apply in the same manner
146 and to the same extent to the members, staff and authorized
147 representatives of the commission.

148 (m) The commission shall be deemed to be a criminal justice agency
149 as defined in subsection (b) of section 54-142g of the general statutes.

150 (n) The commission shall meet at least once during each calendar
151 quarter and at such other times as the chairperson deems necessary.

152 (o) Not later than January 15, 2010, and annually thereafter, the
153 commission shall submit a report, in accordance with the provisions of
154 section 11-4a of the general statutes, to the Governor, the General
155 Assembly and the Chief Justice of the Supreme Court.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2009	New section

JUD *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 \$
Policy & Mgmt., Off.; Comptroller Misc. Accounts (Fringe Benefits)	GF - Cost	Approximately 123,000	Approximately 163,000
Legislative Mgmt.	GF - Cost	Minimal	Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill establishes a permanent Sentencing Commission within the Office of Policy and Management (OPM) for administrative purposes, only. The bill requires the Commission to undertake various tasks as follows: assisting in database development; conducting quantitative analyses of various types including program evaluation; conducting training on sentencing and related issues; and researching sentencing disparity.

It is anticipated that the Office of Policy and Management's Criminal Justice Policy and Planning Division will be able to assist the Commission in many respects. However, given the ongoing nature of the bill's Commission and the scope and potential intensity of work involved in the carrying out of its duties, it is anticipated that the OPM would require an additional position and funding to contract for outside expertise.

To the extent that legislative members of the Commission receive mileage reimbursement (currently 55 cents per mile) related to their work on the Commission, the Office of Legislative Management would incur a minimal cost annually.

The Out Years

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

OLR Bill Analysis**sHB 6697*****AN ACT ESTABLISHING A SENTENCING COMMISSION.*****SUMMARY:**

This bill creates a 26 member Connecticut Sentencing Commission to review the existing criminal sentencing structure and any proposed changes, including existing statutes, proposed legislation, and existing and proposed sentencing policies and practices. It puts the commission within the Office of Policy and Management (OPM) for administrative purposes only.

The bill sets out a guiding principle for the commission's work and the purposes of sentencing, lists specific duties for the commission, and authorizes the commission to access information held by state and municipal agencies.

The bill requires the commission to meet at least once each quarter and at other times the chairperson deems necessary. It must make recommendations to the governor, legislature, and criminal justice agencies and begin submitting annual reports to the governor, legislature, and Supreme Court chief justice by January 15, 2010.

EFFECTIVE DATE: October 1, 2009

MEMBERSHIP***Ex-Officio Members***

The bill makes the following officials members of the commission with terms coterminous with their term of office:

1. Board of Pardons and Paroles chairperson;
2. chief public defender;

3. chief state's attorney;
4. correction, mental health and addiction services, and public safety commissioners;
5. OPM Criminal Justice Policy and Planning Division undersecretary; and
6. victim advocate.

Legislators Appointed to the Commission

The bill requires the appointment of seven legislators to the commission but does not specify their terms. Table 1 shows the appointing authority and the legislators to be appointed.

Table 1: Legislators Appointed to the Commission

<i>Appointing Authority</i>	<i>Legislative Member of the Commission</i>
Senate president pro tempore	Majority party senator who serves on the Appropriations Committee
House speaker	Majority party representative who serves on the Judiciary Committee
Senate minority leader	Minority party senator who serves on the Judiciary Committee
House minority leader	Minority party representative who serves on the Appropriations Committee
African-American Affairs Commission	One legislator
Latino and Puerto Rican Affairs Commission	One legislator
Permanent Commission on the Status of Women	One member

Other Appointed Members

The bill requires various authorities to appoint an additional 11 members. Table 2 displays the appointing authority, the criteria for the member to be appointed, and the term for each member.

Table 2: Other Members Appointed to the Commission

Appointing Authority	Member	Term
Supreme Court chief justice	Judge	One year
	Judge	Three years
	Representative of the Judicial Branch's Court Support Services Division	Two years
	Academic	Four years
	Active or retired judge	Four years
Chief State's Attorney	State's attorney	Three years
Connecticut Criminal Defense Lawyers Association president	Member of the criminal defense bar	Three years
Connecticut Police Chiefs Association president	Municipal police chief	Two years
Senate president pro tempore and House speaker (joint appointment)	Former inmate or advocate for former inmates	Four years
Governor	Crime victim or victim advocate	Four years

Senate and House minority leaders (joint appointment)	Member of a civil rights organization involved in issues of racial disparity in the criminal justice system	Four years
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Reappointments and Vacancies

The bill allows appointed members to be reappointed, and any vacancy is filled by the appointing authority for the unexpired portion of the term.

Chairperson and Vice-Chairperson

The bill makes the active or retired judge appointed by the Supreme Court chief justice the commission's chairperson. The commission elects a vice-chairperson from its members.

GUIDING PRINCIPLE AND PURPOSE OF SENTENCING

The bill sets a general principle that the commission should consider in its work: sentencing's primary purpose is to enhance public safety while holding the offender accountable to the community. In addition, it states that sentencing should:

1. reflect the seriousness of the offense;
2. be proportional to the harm to victims and the community;
3. use the most appropriate sanction available including prison, community punishment, and supervision;
4. have an overriding goal of reducing criminal activity, imposing just punishment, and providing meaningful and effective rehabilitation and reintegration of the offender; and
5. be fair, just, and equitable while promoting respect for the law.

COMMISSION'S DUTIES

The bill requires the commission to:

1. facilitate development and maintenance of a statewide sentencing database in collaboration with existing state and local agencies and, when the database is completed, review criminal justice legislation on request, within resources;
2. evaluate current sentencing statutes, policies, and practices and conduct a cost-benefit analysis;
3. analyze and study sentencing trends and prepare offender profiles;
4. provide training on sentencing and related issues, policies, and practices;
5. act as a sentencing policy resource for the state;
6. preserve judicial discretion and provide for individualized sentencing;
7. evaluate the impact of pre-trial, sentencing diversion, incarceration, and post-release supervision programs;
8. perform fiscal impact analyses on selected proposed criminal justice legislation;
9. identify potential areas of sentencing disparity relevant to racial, ethnic, gender, and socioeconomic status; and
10. make recommendations for criminal justice legislation to the Judiciary Committee, which must hold a hearing on them.

INFORMATION

The bill requires the commission to have access to confidential information received by sentencing courts and the Board of Pardons and Paroles that includes arrest data, criminal history records, medical records, and other non-conviction information.

It requires the commission to obtain full and complete information on state programs, activities, and operations. The bill allows the

commission to ask any state or municipal subdivision office, department, board, commission, or agency to provide records, information, and assistance needed or appropriate to carry out the commission’s duties. The bill authorizes and directs the officers and employees of those entities to cooperate with the commission and to furnish requested records, information, and assistance.

The bill provides that any record or information given to the commission that is confidential under the statutes, remains confidential while in the commission’s custody and cannot be disclosed. Any penalty that applies to the officials, employees, and authorized representatives that give the records to the commission also applies in the same way to the commission’s members, staff, and authorized representatives.

The bill makes the commission a “criminal justice agency” for purposes of access to criminal history record information of state agencies and subjects the commission to the same security and privacy provisions as the other criminal justice agencies.

BACKGROUND

Sentencing Task Force

PA 06-193 created a Connecticut Sentencing Task Force to review the state’s criminal justice and sentencing policies and laws to create a more just, effective, and efficient system of sentencing. PA 08-143 required the task force to recommend whether to establish a permanent sentencing commission and, if so, the permanent commission’s mission, duties, membership, and procedures. The task force’s January 7, 2009 report recommended creation of a permanent sentencing commission.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 40 Nay 0 (03/31/2009)