



Senate

General Assembly

File No. 705

January Session, 2009

Substitute Senate Bill No. 543

Senate, April 20, 2009

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING SENTENCE MODIFICATION.

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

1 Section 1. Section 53a-39 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2009*):

3 (a) At any time during the period of a definite sentence, [of three
4 years or less,] the defendant may seek modification of the sentence
5 pursuant to this section, except that a defendant may not seek such
6 modification for a second or subsequent time without the agreement of
7 the state's attorney.

8 (b) The sentencing court or judge may, after hearing and for good
9 cause shown, reduce the sentence, order the defendant discharged []
10 or order the defendant discharged on probation or conditional
11 discharge for a period not to exceed that to which the defendant could
12 have been originally sentenced.

13 [(b) At any time during the period of a definite sentence of more

14 than three years, upon agreement of the defendant and the state's
 15 attorney to seek review of the sentence, the sentencing court or judge
 16 may, after hearing and for good cause shown, reduce the sentence,
 17 order the defendant discharged, or order the defendant discharged on
 18 probation or conditional discharge for a period not to exceed that to
 19 which the defendant could have been originally sentenced.]

20 (c) The provisions of this section shall not apply to any portion of a
 21 sentence imposed that is a mandatory minimum sentence for an
 22 offense which may not be suspended or reduced by the court.

23 (d) At a hearing held by the sentencing court or judge under this
 24 section, such court or judge shall permit any victim of the crime to
 25 appear before the court or judge for the purpose of making a statement
 26 for the record concerning whether or not the sentence of the defendant
 27 should be reduced, the defendant should be discharged or the
 28 defendant should be discharged on probation or conditional discharge
 29 pursuant to [subsection (a) or (b) of] this section. In lieu of such
 30 appearance, the victim may submit a written statement to the court or
 31 judge and the court or judge shall make such statement a part of the
 32 record at the hearing. For the purposes of this subsection, "victim"
 33 means the victim, the legal representative of the victim or a member of
 34 the deceased victim's immediate family.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2009	53a-39

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 \$
Pub. Defender Serv. Com.; Criminal Justice, Div.; Comptroller Misc. Accounts (Fringe Benefits)	GF - Potential Cost	Significant	Significant
Correction, Dept.	GF - Potential Savings	Significant	Significant

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill entitles inmates sentenced to prison for 3 years or more to have one hearing to consider sentence modifications; such hearings are routinely denied under current law.¹

There are currently more than 5,000 sentenced offenders who would qualify for such hearings under the bill. Approximately 2% of offenders for whom sentence review hearings are held have their sentences altered (in all cases reduced). Provided this rate of change holds for sentence modification hearings held under the bill, approximately 100 inmates could have their sentences reduced.

Assuming that it takes 2 hours to prepare for and participate in any such hearing, the bill could generate approximately 10,000 hours of additional work for state prosecutors and 7,500 hours for public defenders (who handle roughly 75% of cases processed in Judicial

¹ Under current law, any person serving up to 3 years can seek sentence modification and any person serving more than 3 years must first get the state's attorney's approval. The bill permits any inmate (regardless of sentence length) to make an

District courts). The extent to which inmates will take the opportunity to participate in a hearing to consider sentence modification is uncertain. However, given the relatively large pool of potential applicants, the Divisions of Criminal Justice and Public Defender Services Commission could each require at least one more position to handle additional hearings under the bill.

The Out Years

The potential significant savings to the Department of Correction and potential significant cost to the state agencies involved in conducting hearings would decrease in the out years as the one-time influx of hearings (related to current inmates) is depleted.

Sources: Public Hearing Testimony

initial request without getting the state's attorney's approval; any subsequent requests require the state's attorney's approval under the bill.

OLR Bill Analysis**sSB 543*****AN ACT CONCERNING SENTENCE MODIFICATION.*****SUMMARY:**

Under current law, there are different procedures for seeking sentence modification. Defendants serving a sentence of less than three years can ask the sentencing court or judge to modify the sentence; however, those serving a sentence of more than three years must get the state's attorney to agree to have the court or judge consider the request.

This bill eliminates the different procedures. Instead it allows all defendants, regardless of their sentence length, to make an initial request for modification without first getting the state's attorney's approval. Defendants seeking a second or subsequent modification must get the state's attorney's approval. Under current law, defendants sentenced to less than three years may make unlimited requests for modification.

By law, unchanged by the bill, a sentencing court or judge may reduce a defendant's sentence, order him or her discharged, or order him or her discharged on probation or conditional discharge. The decision to modify a sentence can only be made after a hearing and for good cause. A mandatory minimum sentence may not be suspended or reduced by the court.

EFFECTIVE DATE: October 1, 2009

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 43 Nay 0 (03/31/2009)